CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT

Agenda Date: December 2, 2019
Reviewed by: NA

SUBJECT: Proposed Repeal and Replacement of Chapter 20.32 "Signs" of the Albany Municipal Code- First Reading

REPORT BY: Anne Hersch, AICP, Planning Manager

SUMMARY

The City Council identified an update to the Sign Ordinance in the 2019-2021 Strategic Plan. The current ordinance was written in 1978 and is inconsistent with recent federal case law related to signs and content neutrality. The draft of Chapter 20.32 "Signs" before the City Council has been rewritten to comply federal case law.

PLANNING & ZONING COMMISSION RECOMMENDATION

That the Council introduce for first reading Ordinance No. 2019-10 repealing and replacing Chapter 20.32 "Signs" of the Albany Municipal Code. The Planning & Zoning Commission adopted the following resolutions:

1. Planning & Zoning Resolution 2019-07 a Resolution of Intention to initiate Code amendments to Chapter 20.32 "Signs" of the Albany Municipal Code on April 24, 2019.

2. Planning & Zoning Resolution 2019-11 forwarding a recommendation to the City Council to adopt Chapter 20.32 "Signs" of the Albany Municipal Code on November 13, 2019.

STAFF RECOMMENDATION

That the Council introduce for first reading Ordinance No. 2019-10 repealing and replacing Chapter 20.32 "Signs" of the Albany Municipal Code.

BACKGROUND

The Zoning Code was comprehensively updated in 2004 and adopted by the City Council. The Sign Ordinance as it exists was established in 1978. During the 2004 update effort, amendments to the sign ordinance were not prepared. Thus, the current regulations date back to 1978 and do not reflect modern signage regulations or consistency with recent case law.

As part of the Albany 2035 General Plan, there is a policy to address commercial signage and an implementation action to update the City's Sign Ordinance.

> ***Policy LU-6.5: Signage***
>
> *Treat commercial signage as an integral part of building design, and an opportunity to enhance the visual character of the city.*
>
> ***Action LU-6.H: Sign Ordinance Revisions***
>
> *Update Section 20.32 of the Municipal Code (Sign Regulations) to reflect best practices, ensure full compliance with recent court decisions, and address local objectives such as the elimination of billboards along major thoroughfares.*

Supreme Court Ruling

In 2015, the Supreme Court issued a ruling in the case of Reed vs. Town of Gilbert, Arizona (See Attachment 5) which concluded that local jurisdictions may not create different rules for signage based on content. The ruling effectively requires strict content neutrality, provisions for on-site and off-site signage as well as commercial and non-commercial distinctions. A jurisdiction may regulate time, place, and manner but may not regulate content. Objective standards must be specified by zoning district.

ANALYSIS

The current sign ordinance was written in 1978 and was amended in 2014 to prohibit digital billboards. The ordinance lacks any language on content neutrality as well as distinctions between commercial and non-commercial signage. The City's legal counsel has advised that the entire ordinance be repealed and replaced with an entirely new ordinance. Staff has worked with the Planning & Zoning Commission to draft an ordinance that modernizes sign regulations and demonstrates compliance with federal law. The draft establishes policies that encourage cohesive signage that is appropriately scaled for the respective zoning district. Additionally, updated regulations for signage during election periods are included.

Planning & Zoning Commission Review

Three Planning & Zoning Commission meetings have been held to discuss the draft and refine the ordinance content. The Commission initially reviewed draft regulations on April 24, 2019 and adopted a resolution of intention to amend the Zoning Ordinance. A second discussion was agendized on October 23, 2019 at which time the Commission provided extensive comments for refinement including modifying the order of the content, refining language for consistency, and eliminating redundancy within the draft. The Commission continued the matter to a date certain of November 13, 2019 to review the final draft and

adopted Resolution 2019-11 forwarding a recommendation to the City Council to adopt the draft ordinance. The ordinance has been rewritten to include the following sections:

- Purpose
- Regulatory Scope
- New definitions with corresponding graphics
- General Regulations
- Evaluation Standards
- Election non-commercial signage time, place, manner restrictions
- Message Neutrality
- Review for authority
- Sign area requirements by Zoning District
- Sign area requirements by sign type
- Requirement for a master sign program

The Commission recommended refinements to the size requirements for each zoning district as well as the integration of signage to preserve architectural features. The intent with these amendments is to promote signage that is proportional to the building and pedestrian scale. The allowable sign areas have been reduced:

San Pablo Commercial Zoning District

- Existing: 3 sq. ft. of signage for 1 linear foot of frontage
- Proposed: 2 sq. ft. of signage per 1 linear foot of frontage

Solano Commercial Zoning District

- Existing: 2 sq. ft. to 1 linear foot
- Proposed 1 sq. ft. to 1 linear foot.

Election Period Sign Display

Revised regulations for temporary non-commercial signage during election periods is also addressed in the proposed ordinance. The current ordinance identifies "political signage." This is inconsistent with federal law as it defines a sign by content. The existing ordinance also limits sign area to 16 sq. ft. total (approximately 4 campaign signs) on private property and prescribes a time frame of 40 days prior to election and removal 15 days after the election. The new ordinance allows displays up to 45 days prior to an election with removal 10 days after the election date and no restriction on sign area or quantity.

CEQA

The Code amendments are exempt from CEQA pursuant to Section 15061(b)(3).

SUSTAINABILITY/SOCIAL EQUITY IMPACT

N/A

CITY COUNCIL STRATEGIC PLAN INITIATIVE

As part of the 2019-2021 Strategic Plan, the City Council included an objective to amend the Sign Ordinance. This amendment update is consistent with Goal 4, Objective 3 "Maintain an attractive atmosphere in Business District", Workplan Item 3 "Update Sign Ordinance."

FINANCIAL IMPACT

There are no financial impacts associated with this ordinance.

Attachments

1. Ordinance 2019-10 Chapter 20.32 "Signs"
2. Existing Version of Section 20.32 "Signs" of the Albany Municipal Code
3. Planning & Zoning Commission Meeting Minutes Excerpts
4. Western Cities Summary Article
5. Supreme Court Ruling
6. PZ Resolution 2019-07
7. PZ Resolution 2019-11

ORDINANCE NO. 2019-10

AN ORDINANCE OF THE ALBANY CITY COUNCIL REPEALING AND REPLACING SECTION 20.32 "SIGNS" OF THE ALBANY MUNICIPAL CODE

WHEREAS, Chapter 20 "Planning & Zoning" was comprehensively updated and adopted in 2004; and

WHEREAS, Chapter 20.32 "Signs" was established in 1978 and amended in 2014; and

WHEREAS, the Albany 2035 General Plan contains policies and an action item to address commercial signage and update the City's Sign Ordinance:

Policy LU-3.7: Commercial Design

Encourage distinctive architecture in Albany's commercial district, with massing, height, façade design, exterior materials, and lighting used to establish a strong sense of place and orientation.

Policy LU-6.5: Signage

Treat commercial signage as an integral part of building design, and an opportunity to enhance the visual character of the city.

Action LU-6.H: Sign Ordinance Revisions

Update Section 20.32 of the Municipal Code (Sign Regulations) to reflect best practices, ensure full compliance with recent court decisions, and address local objectives such as the elimination of billboards along major thoroughfares; and

WHEREAS, the United States Supreme Court decision in Reed vs. Town of Gilbert, AZ in 2015 held that local sign ordinances cannot treat categories of non-commercial signs differently based on the content of their messages; this decision requires amendments to Chapter 20.32 "Signs" to establish content neutrality for non-commercial signs while maintaining reasonable time, place and manner regulations; and

WHEREAS, the proposed amendments are consistent with the City Council Strategic Plan adopted in April 2019 which includes Goal 4 "Advance Economic Development and the Arts" Objective 3 "Maintain an attractive atmosphere in Business District" Workplan Item 3 "Update Sign Ordinance"; and

WHEREAS, Goal 4 "Advance Economic Development and the Arts" Objective 3 "Maintain an attractive atmosphere in Business District" Workplan Item 3 "Update Sign Ordinance" is contained in the 2019-2021 Strategic Plan; and

WHEREAS, the Planning & Zoning Commission adopted Planning & Zoning Resolution of Intention No. 2019-07 to initiate amendments to Chapter 20.32 "Signs" of the Albany Municipal Code on April 24, 2019; and

WHEREAS, a public hearing notice was published in the West County Times and posted in three public places pursuant to California Government Code Section 65090 on October 11, 2019 for the public hearing held on October 23, 2019; and

WHEREAS, the Planning & Zoning Commission held a public hearing to discuss the proposed changes on October 23, 2019 and continued the matter to a date certain of November 13, 2019; and

WHEREAS, the Planning & Zoning Commission held a public hearing and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request; and

WHEREAS, the Planning and Zoning Commission adopted Planning & Zoning Resolution No. 2019-11 forwarding a recommendation to the City Council to amend Chapter 20.32 "Signs" of the Albany Municipal Code; and

WHEREAS, a public hearing notice was published in the West County Times and posted in three public places pursuant to California Government Code Section 65090 on November 22, 2019 for the public hearing held on December 2, 2019; and

WHEREAS, the Albany City Council held a public hearing and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request.

NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: CHAPTER 20 "PLANING & ZONING" OF THE ALBANY MUNICIPAL CODE, SECTION 20.32 TITLED "SIGNS" IS HEREBY AMENDED AS FOLLOWS:

SECTION 20.32 SIGNS

20.32.010 Purpose.

This Chapter creates a comprehensive and balanced system of sign regulation in the City of Albany which will facilitate communication by sign and simultaneously serve public interests, including but not limited to the following:

A. Free Speech. To accommodate and encourage the right of free speech by sign display, while balancing this right against other public interests.

B. Public Health and Welfare. To serve the public health, safety, and welfare through appropriate prohibitions, regulations, and controls on the design, location, and maintenance of signs.

C. General Plan. To implement the sign-related goals, purposes and strategies of the City's general plan.

D. Regulation System. To establish a comprehensive and reasonable system for regulating signs integrated within the zoning code.

E. Notice. To provide public notice of rights and responsibilities related to sign display.

F. Equal Rights. To ensure that similarly situated persons have equal rights and responsibilities regarding sign display.

G. Community Aesthetics. To serve the aesthetic interests of the City by minimizing visual clutter which can be caused by excessive signs.

H. Visibility. To relate sign area and height to viewing distance and optical characteristics of the eye.

I. Safety. To reduce safety hazards to drivers and pedestrians by minimizing the view obstruction, distraction, and confusion that can result from inappropriate or improperly placed signs.

J. Structural Integrity. To minimize safety risks by ensuring structural integrity and proper maintenance of signs.

K. Residential Tranquility. To protect the peaceful, quiet, residential nature of neighborhoods from intrusion or degradation by excessive commercial signs.

L. Compatibility. To ensure that sign structures are physically compatible with the surrounding area.

M. Property Values. To protect and enhance property values by minimizing signs that contribute to the visual clutter of the streetscape, such as oversized signs and excessive temporary signs.

N. Economic Value. To enhance the economic value of the City and each area therein by setting reasonable rules regarding sign size, location, design and illumination.

O. Information. To serve the public convenience by providing for directional and functional information on signs.

20.32.015 Regulatory Scope.

This Chapter regulates signs that are mounted or displayed on public and private property within the City of Albany.

20.32.020 Definitions (A-Z).

As used in Chapter 20.32 "Signs" this section:

Awning shall mean any structure made of flexible fabric or similar material covering a frame attached to a building.

Awning Sign shall mean a visually communicative element placed upon an awning.

Awning

Banner shall mean any temporary sign of lightweight fabric or similar material that is mounted on a building wall (or construction fence if located at a construction site) at one or more edges for the purpose of attracting attention and/or displaying a visually communicative image.

Billboard shall mean a permanent structure sign in a fixed location, that meets one or more of the following criteria:

1. Is intended to be used for, or is actually used for, the display of general advertising or general advertising for hire, regardless of whether the display of the message is in exchange for cash or any other consideration, and regardless of whether a given message is categorized as commercial, non-commercial, or otherwise; or

2. Is intended to be used for, or is actually used for, the display of commercial advertising messages which pertain to products or services which are offered at a different location, also known as “off-site commercial” messages; or

3. Constitutes a separate principal use of the property, in contrast to an auxiliary, accessory or appurtenant use to the principal use of the property.

City Property and Public Rights of Way shall mean land or other property in which the City of Albany holds a present right of possession and control, plus all public rights of way, regardless of ownership. City property includes any curbstone, lamppost, pole, bench, hydrant, bridge, wall, tree, sidewalk, parking strip or structure in or upon any public street, alley, public right of way or any other public property.

Commercial Message shall mean a visually communicative image on a sign, or a portion of a sign, which proposes or encourages an economic transaction, or which concerns the economic interests of the sign sponsor and/or the viewing audience. Contrast: non-commercial message.

Development Sign shall mean a temporary sign listing the architect, landscape architect, engineer, planner, contractor, or other person or firm participating in the development or construction or financing of the project.

Election Period shall mean the period of time which begins 45 days before and ends 10 days after any primary, general or special election in which Albany voters may vote.

Exempt Sign shall mean a sign which may be legally displayed, erected or maintained, but it is not subject to a sign permit. Exemption from the sign permit requirements does not mean exemption from other applicable planning and zoning requirements. Exempt signs may still be subject to rules about size, height, setback, and illumination.

Flag shall mean any fabric, banner, or bunting containing distinctive colors, patterns, or design that displays the symbol(s) of a nation, state, local government, company, organization, belief system, idea or other meaning. The term is not restricted to official or government flags.

Freestanding Sign shall mean a permanent structure sign that is self-supporting in a fixed location and not attached to a building. Freestanding signs are of two general types: monument and pole.

Freestanding Sign

Fully Animated Signs means an on-premises identification sign with flashing, blinking, animated, rotating signs, or signs whose illumination or surface changes with time; this shall not include barber poles, reader boards or public service messages such as time and temperature.

Hold Harmless means an agreement between the property owner and the City which indemnifies and relieves the City of all financial responsibility, liability and other costs including attorney's fees, for any injury or damages that result by virtue of a claim against the City by a third party.

Illegal sign shall mean any of the following:

1. A sign erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use;

2. A sign that is unlawfully placed and causes a potential traffic hazard or obstructs site distance, the view of any authorized traffic sign, signal, or other such device.

Illuminated Sign shall mean a sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign. The term includes signs made from neon or other gas tubes that are bent to form letters, symbols, or other shapes.

Marquee Sign shall mean a permanent roof-like structure or canopy made of rigid materials supported by and extending from the façade of a building.

Marquee Sign

Master Sign Program shall mean a comprehensive scheme for a consistent visual theme applicable to multiple establishments located in a single development project. Such programs often include standardized fonts, lighting, background, other elements of graphic design, and placement rules. Also known as "sign program."

Monument Sign shall mean a freestanding sign constructed upon a solid-appearing base or pedestal.

Monument Sign

Mural shall mean a one-of-a-kind, hand-painted or hand-tiled image applied to and made integral to the exterior wall of a commercial or industrial building in commercial and industrial zones, in public view that contains no commercial message.

Nits shall mean the measurement of a surface brightness or candela per square meter.

Nonconforming Sign shall mean a sign that was lawfully erected but which does not conform to current law. The term does not apply to signs that were originally erected in violation of then current law.

Non-Commercial Message shall mean the message on a sign which concerns non-commercial matters, typically including commentary or advocacy on topics of public debate and concern, such as by way of illustration and not limitation, religion, politics, art, and social commentary. This definition shall be construed and interpreted in light of relevant court decisions. Non-commercial message do not have a location factor such as on-site or off-site. Contrast: Commercial Message

Noncommunicative Aspects shall mean those aspects of a sign which are not directly communicative, such as the physical structure when not figurative or symbolic, mounting device, size and height, setback, illumination, spacing, density, scale and mass relative to other structures, etc.

Off-site or Off-premises Sign shall mean a sign that identifies, advertises or attracts attention to a business, product, service, event, or activity sold, existing or offered at a different location.

On-Site or On-Premises Sign shall mean any sign or portion thereof that identifies, advertises or attracts attention to a business product, service, event or activity that is sold, existing or offered upon the same property or land use as the sign.

On-Site Advisory Sign shall mean sign which provides information for the convenience of the public such as services available, direction or courtesy information. Typical examples include store entrances, walk-up windows and self-service operations, hours of operation, handicapped accessibility, restroom, and directional signs for vehicles, bicycles, and pedestrians.

Partially Animated Signs means flashing, blinking, animated, rotating signs or signs whose illumination or surface changes with time, on a very limited basis. This shall not include barber poles, reader boards or public service messages such as time and temperature.

Pennant or Streamer shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, attached to a rope, wire, or string, usually in a series, designed to move in the wind and attract attention. Flags are not within this definition. Traditional pennants are triangular to “swallow tail” in form, and longer in the fly than in the hoist or attachment.

Permanent Sign means one for which a sign permit is approved and issued with no time restriction.

Pole Sign shall mean a freestanding sign supported by one or more metal or wood posts, pipes, or other vertical supports. This includes signs whose supporting poles or pylons are covered by cladding. This definition applies to pole signs even when the poles have been covered by cladding.

Portable Sign shall mean a sign not permanently attached to the ground or other permanent structure but is instead designed to be transported or easily moved, including but not limited to signs designed to be transported by means of wheels, A-frames and balloons.

Primary Building Face shall mean that wall of a building which contains the principal entrance or entrances to the building. If there are principal entrances in more than one wall, the longest of the walls in which principal entrances are located shall be the primary building face. "Primary building face" shall include not only the wall itself but all doors, windows, or other openings therein and projections therefrom.

Projecting Sign means a sign affixed to the face of a building and projecting more than twelve (12) inches either perpendicularly or at an angle from the surface.

Projecting Sign

Public Property shall mean land or other property where the City is the owner or has the present right of possession and control including areas that are either designated as public rights-of-way or have long been used as public rights-of-way.

Reader Board means a sign or portion of a sign designed for use with interchangeable letters.

Real Estate Sign shall mean any temporary sign displaying message which concerns a proposed sale, rent, lease, or exchange of real property. All signs described within California Civil Code Section 713 are within this definition.

Roofline shall mean the top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

Roof Sign shall mean a type of roof sign that is located on a roof of a building or having its major structural supports attached to a roof.

Sign means all letters, figures, symbols or objects designed or used to attract or direct attention for identification, directional or advertising purposes. "Signs" include all banners, placards, posters, strings of lights, outdoor displays and similar items used to attract attention.

Sign Area shall mean the display surface area including any background or backing constructed, painted or installed as an integral part of the sign as follows:

1. Where separate backing or individual cutout figures or letters are used, the area shall be measured as the area of the smallest polygon and not to exceed six straight sides which will completely enclose all figures, letters, designs, and tubing which are part of the sign.

2. Where separate or individual component elements of a sign are spaces or separated from one another, each component shall be considered a separate sign.

3. The total sign area shall be measured to include all sides of a double-faced or multi-sided sign.

Sign Permit shall mean a written authorization from the City to erect, maintain or display a sign. A building permit issued for a sign is also considered a sign permit for that sign.

Special Public Events shall mean events such as public street closures, parades and demonstrations.

Street Banner shall mean a sign made of material similar to heavy canvas or reinforced plastic, attached to light standards, and suspended over a City street or sidewalk from time to time.

Street Frontage shall mean the lineal distance of the property parallel to the street right-of-way.

Suspended Sign shall mean a sign hung from beneath an awning, canopy, covered walkway or arcade. This category also includes projecting signs.

Traditional public forum shall mean the surfaces of City-owned streets, the surfaces of City-owned public parks (not including cemeteries), public sidewalks which are connected to the City's main pedestrian circulation system, and the surface of the pedestrian area immediately surrounding City Hall (not including the interior thereof). In consultation with the City attorney, the Community Development Director shall interpret this term for compliance with court decisions.

Temporary Commercial Sign shall mean a commercial sign intended for the display of up to thirty (30) days. Area of temporary signs shall not be included in computation of allowable area for permanent signing.

Temporary Non-Commercial Sign shall mean a sign which displays non-commercial speech. This shall include signs displayed during election periods. Temporary non-commercial signs shall not be inflatable or air activated, projecting, or roof mounted.

Wall Sign shall mean any sign attached to, erected against or painted upon the wall of a building or structure, the face of which is in a single plane parallel to the plane of the wall. Wall signs also includes signs on a false or mansard roof.

Wall Sign

Window Sign- Permanent shall mean a sign displayed within three feet from the inside of the window face or on the window face, and that is visible from a public street or walkway, on display without change in image for more than 45 days per calendar year.

Window Sign

Window Sign – Temporary shall mean a sign displayed within one foot of a window face, and that is visible from a public street or walkway, on display less than 45 days per calendar year.

20.32.025 Evaluation Standard.

Whenever any sign permit, master sign program, conditional use permit, zoning administrator permit, or planning entitlement, or other sign-related decision is made by any exercise of official discretion, such discretion shall be exercised only as to the noncommunicative aspects of the sign, such as size, height, orientation, location, setback, illumination, spacing, scale and mass of the structure, compatibility with the surrounding area, etc.

20.32.030 General Regulations.

A. **Non-Transferable.** Each permit will be for a specific sign of a specific occupant and will not be transferable from one location to another.

B. **Window Coverage.** In commercial zoning districts, window signs shall not exceed 20 percent of the window area and transparent door frontage on any building façade. Any sign either hung within two feet of a window or attached to a display located within two feet of a window shall be considered a window sign.

C. **Public Right of Way Projections**. All property owners who wish to install any signs which project onto the City's public right-of-way shall be required to submit a hold harmless agreement prior to sign installation that indemnifies and relieves the City, and if necessary, the State of California, of all financial responsibility, liability and other costs.

D. **Sign Placement.** Signs shall not be installed to cover architectural or character defining features of the building. Where feasible, signs should be placed below transom level and indirectly illuminated or halo lit.

E. **Removal of Illegal Signs.** Signs erected or placed contrary to the regulations of this Chapter shall be removed promptly upon notice from the Community Development Department.

F. **Immediate Removal.** Streamers, pennants, banners, nonconforming in-window signs and signs which are dilapidated or abandoned shall be promptly removed.

G. **Owner's Consent.** No sign may be placed on private property without the consent of the legal owner of the property and persons holding the present right of possession and control (ex. Tenant or leaseholder).

H. **Responsibility for Compliance**. The responsibility for compliance with this Chapter rests jointly and severally upon the sign owner and/or sponsor, all parties holding the present right of possession and control (e.g., tenant or leaseholder) of property whereon a sign is located, and the legal owner of the lot or parcel, even if the sign was mounted, erected, or displayed without the owner's consent or knowledge.

I. **Prospective Regulation.** This Chapter applies only to signs whose structure or housing is affixed to its intended premises after the date on which this Chapter takes effect. However, this provision does not legalize signs which were originally installed without full compliance with all then-applicable laws.

J. **On-Site and Off-Site Distinctions**. The distinction between on-site (or on-premises) and off-site (or off-premises) within this Chapter applies only to commercial speech messages.

K. **Applicability for Mixed Use Projects.** In any Zoning District where both residential and nonresidential uses are allowed, the sign-related rights and responsibilities applicable to any particular parcel or land use are as follows: residential uses are treated as if they were located in a residential land use designation where that particular residential use would be allowed as a matter of right, and nonresidential uses are treated as if they were located in a nonresidential land use designation where that particular use would be allowed, either as a matter of right or subject to a conditional use permit or other discretionary process.

L. **Legal Nature of Signs Rights & Duties**. As to all signs attached to real property, the sign rights, duties and obligations arising from this Chapter run with the property on which a sign is mounted or displayed. This section is not intended to modify or affect the law of fixtures, ownership of sign structures, or sign-related provisions in private leases so long as they are not in conflict with this Chapter or other law. This section is not intended to prevent or impede a sign owner from removing a sign structure from a given location and installing it in another location, so long as all permit requirements applicable to the new location are satisfied.

M. **Sign Removal.** Upon closure of a business, the sign shall be removed within 30 days of the date of closure.

20.32.035 Message Neutrality

A. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular protected non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

B. Message substitution under this section does not:

1. Create a right to increase the total amount of sign area on a parcel, lot or land use;

2. Affect the requirement that a sign structure or mounting device be properly permitted under the building code;

3. Allow a change in the physical structure of a sign or its mounting device; or

4. Authorize the substitution of an off-site commercial message in place of an on-site commercial message or in place of a non-commercial message.

C. Message substitution is a continuing right that may be exercised any number of times. Substitution of message applies to the whole or any part of any legally existing sign display area. The substitution right applies to the sign owner and to any other message sponsor displaying any image on the sign with the owner's consent, regardless of whether a fee or any other consideration is given for the display.

20.32.040 Temporary Commercial Signs.

A. Time Duration. Temporary commercial signs may be displayed for up to thirty (30) days in commercial and industrial zoning districts.

B. Location. Signs shall be located on private property only and with permission of the owner or occupant.

C. Size Limitation. Temporary commercial signs shall not exceed four (4) square feet in area per sign.

D. Public Right of Way. Temporary commercial signs shall not be located on City property or public right-of-way. Temporary commercial signs located on City property or public right-of-way shall be subject to removal by the City of Albany.

20.32.045 Temporary Non-Commercial Signs.

A. Time Duration. Except during election period (see Section 20.32.50), temporary non-commercial signs may be displayed for up to thirty (30) days in commercial, industrial, and public facility zoning districts.

B. Location. Signs shall be located on private property only and with permission of the owner or occupant.

C. Size Limitation. Temporary non-commercial signs shall not exceed four (4) square feet in area per sign.

D. Public Right of Way. Temporary non-commercial signs displayed shall not be located on City property or public right-of-way. Temporary non-commercial signs located on City property or public right-of-way shall be subject to removal by the City of Albany.

E. Exception. City sponsored temporary non-commercial sign displays shall be permitted for up to thirty (30) days on City property with prior notice and authorization by City of Albany staff. The notice shall include the time duration for installation and locations of City property.

20.32.050 Temporary Non-Commercial Sign Display During Election Periods.

A. **Time Duration.** Temporary non-commercial signs may be allowed to be displayed during the election period (as defined by this Chapter) which is forty-five (45) days before any primary, general or special election and ten (10) days after any primary, general or special election in which Albany voters may vote.

B. **Location.** Signs shall be located on private property only and with permission of the owner or occupant.

C. **Size Limitations.** Temporary non-commercial sign shall not exceed four (4) square feet in area per sign.

D. **Public Right of Way.** Temporary non-commercial signs displayed during election periods shall not be located on City property or public right-of-way. Temporary non-commercial signs located on City property or public right-of-way shall be subject to removal by the City of Albany.

Table 1. Section 20.32.050 Temporary Non-Commercial Sign Display: Time, Place, Manner During Election Periods

Location/Size/Time Duration	Restriction
Zoning Districts	Signs permitted in all Zoning Districts
Private Property	Permitted with property owner authorization
Public Right of Way/City Owned Property	Prohibited
Quantity of Signs on Private Property	No limit
Maximum Sign Area Per Sign	4 sq. ft. per sign
Time Period for Display	45 days prior to election date
Time Period for Removal	10 days after election date

20.32.055 Prohibited Signs.

The following signs are not allowed:

A. Fully animated signs

B. Dilapidated or abandoned signs

C. Off-premises signs

D. Pennants or streamers

E. Billboards

20.32.060 Signs Exempt from Permit.

The following sign types are allowed in any land use designation without a sign permit. These signs must comply with all applicable rules and structural and locational rules and requirements, and as otherwise provided herein:

Flags	Flags as defined in this Chapter.
Street Banners	Street Banners as defined by this Chapter.
Banners	Banners as defined by this Chapter are permitted for up to 30 days.
Commercial or Identifying Nameplates	Commercial or identifying nameplates not to exceed one (1) square foot in area.
Real Estate Signs	Real Estate Signs as defined by this Chapter.
Memorials	Memorial signs or tablets, names of buildings and dates of erection, when cut into masonry surface or constructed of bronze or other incombustible materials.
Traffic Control	Traffic or other municipal signs, railroad crossing signs, danger, and such temporary emergency signs as may be approved by the City Engineer.
Signs Located in Parking Lots	Directional signs located within parking lots identifying the entrance and exit and other directional information, except in residential districts. Not more than four (4) directional signs shall be posted in one (1) parking lot. Such signs in total shall not exceed twenty (20) square feet in area. Directional instructions painted on the pavement of the lot shall not be included in the measurement of permitted sign area.
Development Sign	Development Sign as defined by this Chapter. Such signs may be erected and maintained for the duration of construction and shall not exceed a total area of 20 sq. ft.
Window Sign-Temporary	Window Sign-Temporary as defined by this Chapter.

Murals	Murals as defined by this Chapter.

20.32.065 Changes to Existing Permitted Signs.

Except as provided in Section 20.32.035, a sign initially approved and for which a permit is issued shall not thereafter be modified, altered or replaced, nor shall any design elements of any building or lot upon which such sign is maintained be modified, altered or replaced if the physical design elements constituted a basis for the sign approval, without an amended or new permit first being obtained pursuant to this Chapter. If the original permit did not contain physical design elements, and only the message or graphic design on the display face is changed, a new or amended permit is not required. If the physical structure of a permitted sign is changed, whether by repair, alteration, expansion, change in electrical supply, change in physical method of image presentation, change in dimension or weight, or similar factors, then a new permit or amendment to the existing permit is required.

20.32.070 Authority for Review.

The designated reviewing authority for shall evaluate proposed signs for compliance with this Chapter. The Community Development Director has the authority to refer applications to the Planning & Zoning Commission. Administrative sign review does not require notification or a public hearing. Review by the Planning & Zoning Commission requires a public hearing and notification pursuant to California Government Code Section 65090.

20.32.075 Application, Fees, and Accompanying Material.

An application for a sign permit shall be made in writing on a form prescribed by the Community Development Department and shall be accompanied by the required fee as prescribed in the Master Fee Schedule. The applicant shall submit plans, drawings and other

supporting data as determined necessary by the Community Development Department. The Community Development Department shall establish and maintain a submittal requirement checklist for sign permit applications.

20.32.080 Allowable Sign Area by Zoning District.

Allowable sign area is determined by the underlying Zoning District. Each Zoning District has different allowable signs area standards determined by the physical characteristics including scale and context. The intent is to promote compatibility and cohesive sign appearance in each Zoning District. (Exception: See Sections 20.32.40, 20.32.45, 20.32.50 on Temporary Signs).

A. **Residential Districts**- 8 square feet total per parcel.

B. **Solano Commercial (SC)-** 1 square foot per 1 lineal foot of building frontage, maximum of one (1) sign per business. Projecting signs and marquee signs are strongly encouraged.

C. **San Pablo Commercial (SPC)-** 2 square feet per 1 lineal foot of building frontage.

D. **Commercial Mixed Use (CMX) –** Reviewed by the Planning & Zoning Commission on a case by case basis.

E. **Waterfront (WF) -** Reviewed by the Planning & Zoning Commission on a case by case basis.

F. Public Facilities (PF)- Reviewed by the Planning & Zoning Commission on a case by case basis.

20.32.085 Development Standards by Sign Type.

A. Freestanding. The maximum allowable height for a freestanding sign shall not exceed the maximum height for the Zoning District.

B. Monument. The maximum allowable height for a monument sign shall not exceed 10 ft.

20.32.090 Allowable Signs by Type & Zoning District.

Key to Table:

P = Permitted subject to Community Development Director Administrative Review

PE= Permitted and Exempt from Review and Building Permit, See Section 20.32.060 for additional requirements.

PZ = Permitted subject to Planning & Zoning Commission Design Review

-- = Not Permitted

Table 1. 20.32.090

	Zoning District					
	R Districts	**SC**	**SPC**	**CMX**	**WF**	**PF**
Awning	--	P	P	P	--	P
Banner	--	PE	PE	PE	--	PE
Freestanding	--	--	PZ	PZ[1]	PZ[1]	PZ[1]
Fully Automated Sign	--	--	--	--	--	--
Marquee Sign	--	P	P	P	--	P
Master Sign Program	--	PZ	PZ	PZ	PZ	PZ
Monument Sign	--	PZ	PZ	PZ	PZ	PZ
Projecting Sign	--	P	P	P	--	P
Roof Sign	--	--	--	PZ	--	PZ
Wall Sign	--	P	P	P	--	P
Window Sign-Permanent	--	P	P	P	--	P
Window Sign-Temporary	P[2]	PE	PE	PE	--	--
Notes Table 1.						
1. Permitted as part of a Master Sign Program.						
2. In window sign-temporary in R Districts may exceed a 45 day display period as part of a home based business.						

20.32.100 Master Sign Program Requirements.

A. Master Sign Program. A master sign program shall be required for all multi-tenant projects, be reviewed by the Planning and Zoning Commission and shall apply to the entire property. The master sign program shall include the total aggregate square footage of sign area

allowed for the project, the location, dimension, and design of the individual signs for each tenant, and the design, size and, if proposed, location of a freestanding identification sign. New tenants shall be required to comply with the requirements of an approved Master Sign Program.

20.32.105 Severability.

If any provision of this Chapter, in whole or in part, is declared by a court of competent jurisdiction to be unconstitutional, invalid, or inoperative for any reason, or is preempted by legislative enactment, such court decision or legislative enactment shall not affect the validity of the remaining provisions of this Chapter. The Albany City Council hereby declares that it would have adopt this Ordinance and every provision herein, regardless of the fact that any provision(s) might subsequently be declared invalid by a court decision or be preempted by a legislative enactment.

SECTION 2: PUBLICATION AND EFFECTIVE DATE.

This ordinance shall be posted at three public places within the City of Albany and shall become effective thirty days after the date of its posting.

PASSED AND ADOPTED by the City Council of the City of Albany at its meeting on the __ day of _____ 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

ROCHELLE NASON, MAYOR

SECTION 20.32 SIGNS

20.32.010 Purpose.

These regulations are intended to set standards which will permit a reasonable use of signs which give information and directions and which identify goods and services without detracting from the aesthetics of the urban environment. (Ord. No. 78-07, §501; Ord. No. 04-09)

20.32.020 Criteria for Review.

When considering a sign permit application, the Commission or staff will be concerned for the minimum practical sign area consistent with the location and purposes of the signs. The primary purpose of all permanent signs is identification as opposed to product advertising. Further concerns are: to eliminate the clutter of too many signs; assure legibility; and avoid detriment to health, safety, morals, comfort and the general welfare of the City.

All permanent signs requiring a sign permit must reflect the intent of the design review standards of subsection 20.100.050D of this Chapter. (Ord. #78-07, §501.1; Ord. No. 04-09)

20.32.030 Definitions (A-Z).

As used in this section:

Awning means a temporary shelter, usually constructed of canvas, which is supported entirely from the exterior wall of a building.

Banner means a sign made of flexible materials, suspended from one (1) or two (2) corners, including a design or logo.

Fascia Sign means a sign painted on or affixed to a building face, parallel to and not extending more than twelve (12) inches from the surface.

Freestanding Sign means a permanently fixed, separate and detached sign or advertising structure, supported from one (1) or more poles, columns, braces or similar devices.

Fully Animated Signs means an on-premises identification sign with flashing, blinking, animated, rotating signs, or signs whose illumination or surface changes with time; this shall not include barber poles, reader boards or public service messages such as time and temperature. (Ord. No. 2014-03 § 1; Ord. No. 2014-06 § 1)

Hold Harmless means an agreement between the property owner and the City which indemnifies and relieves the City of all financial responsibility, liability and other costs including attorney's fees, for any injury or damages that result by virtue of a claim against the City by a third party.

In-window Permanent Sign means any sign placed in or painted on a window for more than forty-five (45) days.

In-window Temporary Sign means any sign or combination of signs used for identification placed or painted on a window for not more than forty-five (45) days.

Marquee Sign means a sign attached to, painted on, or suspended from a marquee, roof overhang or awning.

Monument Sign means a low profile freestanding sign supported on a solid foundation.

Occupant means each business establishment having its own outside entrance. "Occupant" does not refer to individual tenants who may share the space within the establishment.

Off-premises Sign means one that, at any time, carries any advertisement identification, or directions not strictly incidental to the lawful use of the premises upon which it is located.

Partially Animated Signs means flashing, blinking, animated, rotating signs or signs whose illumination or surface changes with time, on a very limited basis. This shall not include barber poles, reader boards or public service messages such as time and temperature.

Pennant or Streamer means a sign made of flexible materials suspended from one (1) or two (2) corners, used in combination with other pennants and streamers to create the impression of a line.

Permanent Sign means one for which a sign permit is approved and issued with no time restriction.

Portable Sign means "A" frame, merchandise display or other advertising materials which can be readily moved. A vehicle carrying advertising, parked at a curb for other than normal transportation purposes, will be considered a portable sign.

Projecting Sign means a sign affixed to the face of a building and projecting more than twelve (12) inches either perpendicularly or at an angle from the surface.

Reader Board means a sign or portion of a sign designed for use with interchangeable letters.

Roof Sign means a sign which extends or is erected above the roof line or parapet wall.

Sign means all letters, figures, symbols or objects designed or used to attract or direct attention for identification, directional or advertising purposes. "Signs" include all banners, placards, posters, car pictures, strings of lights, outdoor displays and similar items used to attract attention.

Sign Area means the area within the smallest perimeter that will enclose all of the letters, figures or symbols which comprise the sign, but excluding essential supports. Supports will be subject to design approval and engineering approval. For multi-faced signs, area will be the total of all faces.

Sign Permit means the granting of design approval for a specific sign by the Planning Commission or City staff in conformance with the requirements of this section. An additional building permit from the Building Department is necessary to erect any sign.

Temporary Sign means one approved with a specific time limitation. Area of temporary signs shall not be included in computation of allowable area for permanent signing.

(Ord. #78-07, §501.2; Ord. #03-01, §1; Ord. No. 04-09; Ord. No. 2014-03 § 1; Ord. No. 2014-06 § 1)

20.32.040 Prohibited Signs.

The following signs are not allowed:

A. Fully animated signs;

B. Dilapidated or abandoned signs;

C. Off-premises signs;

D. Portable signs in the public right-of-way, except real estate "open house" and "garage sale" signs;

E. Pennants or streamers.

All other types of signs are allowable either with or without a permit as provided in this section.

(Ord. #78-07, §501.3; Ord. #03-01, §1; Ord. No. 04-09; Ord. No. 2014-03 § 2; Ord. No. 2014-06 § 2)

20.32.050 Signs Allowed Without a Permit.

The following signs are allowed without a sign permit. Only signs under paragraphs F, G, H and K may be installed in the public right-of-way, and only after obtaining an encroachment permit.

A. Flags of the U.S. or official flags of the State, City of Albany or United Nations.

B. Professional or identifying nameplates not to exceed one (1) square foot in area.

C. One (1) real estate sign advertising "For Sale", "For Lease" or "For Rent", not over six (6) square feet in area, placed by an owner or his agent on his own property in any residential zone.

D. One (1) real estate sign not exceeding twelve (12) square feet in area, not located closer than three (3) feet to the property line, and pertaining only to the prospective sale or lease of the premises upon which the sign is to be displayed shall be permitted in all nonresidential zones, but shall contain only the name of the property owner or broker representing the property and the necessary address or phone number to which prospective purchasers shall be directed.

E. Memorial signs or tablets, names of buildings and dates of erection, when cut into masonry surface or constructed of bronze or other incombustible materials.

F. Traffic or other municipal signs, railroad crossing signs, danger, and such temporary emergency signs as may be approved by the City Engineer.

G. Signs of a directional nature for a civic event to be permitted for not more than thirty (30) days prior to the event nor more than a forty-eight (48) hour period after the event.

H. Signs serving as directional signs to resorts or to institutions of an educational, religious, charitable or civic nature not to exceed three (3) square feet in area per face.

I. Directional signs located within parking lots identifying the entrance and exit and other directional information, except in residential districts. Not more than four (4) directional signs shall be posted in one (1) parking lot without the approval of the Planning Commission. Directional instructions painted on the pavement of the lot shall not be included in the measurement of permitted sign area. Such signs in total shall not exceed twenty (20) square feet in area.

J. Signs showing the location of public telephones, restrooms and underground utility facilities.

K. One (1) nonilluminated construction site identification sign not to exceed forty (40) square feet in area may be erected and maintained during construction on the site of a construction project. The construction sign may contain the name of the general contractor and others, such as the architect, engineer, other subcontractors or suppliers assigned to the project.

L. In-window temporary signs as defined in this section.

M. Political Signs.

1. **Definition.** A political sign shall mean any sign which is designed to influence the action of the voters either for the passage or defeat of a measure appearing on the ballot or any National, State or local election, or which is designed to influence the action of the voters either for the election or defeat of a candidate for nomination or

election to any office, whether public or private, partisan or non-partisan, at any National, State or local election.

2. **Location Permitted.**

a. Political signs shall be located on private property only and with permission of the owner or occupant and shall not be attached to any utility pole, tree or other vegetation.

b. Political signs shall not be erected in such a manner or at such a location that they will or may reasonably be expected to interfere with, obstruct, confuse or mislead traffic.

3. **Placement and Removal and Rules on Size and Number.**

a. No political sign shall be posted sooner than the first filing of the Campaign Disclosure Statement or forty (40) days prior to the election, the lesser of the two (2) time periods.

b. Political signs shall be removed within fifteen (15) working days after the election to which they relate. Signs placed on behalf of a political candidate successful in primary elections may be permitted to remain for general election purposes.

c. No political sign shall exceed sixteen (16) square feet in area. The aggregate area of all political signs placed or maintained on any parcel or real property in one ownership shall not exceed eighty (80) square feet. Both faces of a double-faced sign shall be calculated in figuring the total signage.

d. The number of political signs posted is not limited except by total maximum area.

e. No City approval need be obtained for posting of any political signs four (4) square feet or less in area. Any person intending to post single political signs over four (4) square feet in area (or any person on whose behalf such signs are to be installed) shall, prior to the installation, file a declaration of such intent with the enforcing officer of the City. Such declaration shall contain an agreement to remove such signs within the applicable time period described above.

f. Any political sign not posted in conformance with the provisions of this Chapter shall be deemed a public nuisance and shall be subject to removal by the candidate, the property owner or, when a proposition is involved, the person advocating the vote described on the sign, and upon their failure to do so, by the enforcing officer. Any costs incurred by the City in the enforcement shall be assessed to the person who signed the declaration of intent.

(Ord. #78-07, §501.4, Ord. #03-01, §1; Ord. No. 04-09)

20.32.060 Signs Allowed With a Permit.

A. The following are allowable with a sign permit issued by the Planning and Zoning Commission, subject to the limitation on size and location:

1. Banners;

2. Fascia signs;

3. Freestanding signs;

4. In-window permanent signs;

5. Marquee signs;

6. Monument signs;

7. Projecting signs;

8. Roof signs.

B. The following signs are allowable with a use permit issued by the Planning and Zoning Commission:

1. Partially animated signs, subject to the following criteria:

a. The Planning and Zoning Commission shall determine the frequency of the use of color and the changing of messages, type of animation, number and types of messages allowed to be displayed, hours of operation, intensity of illumination, compatibility of the height of the sign with the surrounding area, and such other aspects which affect visual presentation of the proposed sign or its functions;

b. They can only be located on parcels more than twenty-five (25) acres in size;

c. No more than one (1) partially animated sign may be placed on property;

d. Proposed animated sign displays shall be submitted to the Community Development and Environmental Resources Director for administrative approval. The Community Development and Environmental Resources Director will accept or reject the proposed display within seven (7) days of the submission.

2. Reserved. (Ord. No. 2014-03 § 3; Ord. No. 2014-06 § 3)

C. The following signs may be approved administratively by the Community Development Director:

1. Signs which entail only a change in the existing message if the area and type of sign remains unchanged.

(Ord. #78-07, §501.5; Ord. #82-03; Ord. #99-06, §1; Ord. #03-01 §1; Ord. No. 04-09; Ord. No. 2014-03 § 3; Ord. No. 2014-06 § 3)

20.32.070 Application for Sign Permit.

Application for sign permits as required herein shall be submitted to the Community Development Director on a designated form. It shall contain dimensions and other necessary information regarding the site and buildings thereon, existing signs, proposed signs and signs to be removed.

For sign applications which are reviewed by the Community Development Director, review shall occur as part of a building permit or business license application process. The action taken on the sign application shall be reported to the Planning and Zoning Commission, based on a schedule to be determined by the Commission.

If in the opinion of the Community Development Director that an application may involve a significant policy or design issue, or that there is significant public controversy, the application shall be referred to the Planning Commission for hearing and action. (Ord. #03-01, §1; Ord. No. 04-09)

20.32.080 General Regulations.

A. Each permit will be for a specific sign of a specific occupant and will not be transferable.

B. There shall be no more than four (4) separate permanent signs for any one (1) building occupant, as defined herein.

C. In-window temporary signs for ground floor occupant shall not exceed fifty (50%) percent of the total window area. Any window area permanently painted over so as to be no longer transparent, or which contains permanent signing, is excluded from measurement of window area.

D. In-window permanent signs for upper floor occupants shall be limited to ten (10%) percent of the window area or a maximum of four (4) square feet per window, whichever is less. Those which are for identification only shall have no time limit.

E. No additional signing is permitted on the basis of frontage for multistoried buildings. A building with exceptional upstairs occupancy may have additional signing with the

approval of the Planning Commission or City. Exception: A directory, not to exceed eight (8) square feet in area, may be erected for identification of upper floor tenants.

F. Shopping Centers:

1. Master Sign Program. A master sign program shall be required for all shopping centers and shall be reviewed by the Planning and Zoning Commission. The master sign program shall include the total aggregate square footage of sign area allowed for the center, the location, dimension, and design of the individual signs for each tenant of the center, and the design, size and location of a freestanding identification sign.

2. Freestanding Identification Sign. A shopping center, in addition to the basic identification sign area permitted each occupant, may have a freestanding identification sign on the basis of one (1) square foot for each four (4) ground floor frontage feet of building face, but not to exceed a maximum of one hundred fifty (150) square feet. The "Center" identification may be a name, a permanent roster of tenants, or a combination thereof.

G. Illuminated tubing and strings of lights outlining portions of a building or open space shall be deemed "signs" under this Chapter and require specific approval of the Planning Commission. Each line of such illumination shall be deemed to have a minimum width of three (3) inches for purposes of area calculation.

H. Any awning or awning sign shall require a sign permit.

I. All property owners who wish to install any signs which project onto the City's public right-of-way shall be required to sign a hold harmless agreement protecting the City, and if necessary, the State of California (as defined in subsection 20.20.040) with the City prior to installing the signs.
(Ord. No. 78-07, §501.6; Ord. No. 03-01, §1; Ord. No. 04-09)

20.32.090 Dimensional Requirements.

A. Residential Districts. Signs in residential districts for nonresidential uses shall not exceed eight (8) square feet in area. Such signs shall not be illuminated nor permitted in any required yard.

B. Nonresidential Zones.

SC ZONE	SPC ZONE
2 sq. ft. per lineal front ft. of building face.	3 sq. ft. per lineal front ft. of building face.
Max. aggregate - 200 sq. ft.	Max. aggregate - 300 sq. ft.

Projecting	Projecting
Max. projection 6 ft. over public right-of-way.	Max. projection 8 ft. over public right-of-way.
Min. clearance 8 ft.	Min. clearance 10 ft.
Roof	Roof
Not allowed.	Max. height 12 ft. above roof line or parapet wall.
Freestanding	Freestanding
Max. height 20 ft.	Max. height 30 ft.
SC ZONE	SPC ZONE
Monument	Monument
Max. height 5 ft.	Max. height 5 ft.
Marquee	Marquee
Min. clearance 8 ft.	Min. clearance 10 ft.
CMX ZONE	WF ZONE
Architectural approval required. Planning Commission shall prescribe on a case-by-case basis.	Architectural and Design Control will govern, consistent with the Waterfront Plan.

NOTE: The "lineal front foot" used to determine allowable sign area applies to the building face abutting the primary commercial street adjacent to the site. If the use is conducted primarily in the open, or is a service station, one-half (1/2) of the primary street frontage may be substituted for the "building face".

C. Shopping Centers. For a shopping center, the applicant may choose to calculate the total allowable sign area for the center on the basis of individual tenant "store frontage" rather than total "building face". The total sign area for each tenant may be computed as two (2) square feet of sign area for each front foot on the building elevation providing primary access to the use, provided that:

1. All signs in the shopping center shall meet the specifications of a Master Sign Program approved by the Commission for that center;

2. The sign area allowed for any tenant may not exceed two hundred (200) square feet;

3. A minimum of twenty (20) square feet of sign must be made available for the building elevation providing primary access to the use and leased by the tenant.

In cases where a use has more than one (1) primary access, the Planning and Zoning Commission may allow an additional one-half (1/2) square foot of sign area for each front foot of "secondary" primary access. This additional sign area must be placed on the building face from which it was calculated.

D. Awning Requirements.

1. The minimum clearance for awnings from the street shall be eight (8) feet, and the maximum projection from the building shall be six (6) feet. In no case shall an awning obstruct traffic or on-street parking spaces.

2. If more than one (1) tenant is in a building where an awning is installed, and if more than one (1) tenant desires an identification sign on the awning, a master sign program for the awning shall be required.

3. The design and location of the awning shall be consistent with the character and scale of the building. The awning shall not in any way block or obstruct an existing sign on any immediately adjacent building.

4. A hold harmless agreement and an encroachment permit shall be obtained prior to the installation of the awning.

5. Awnings are subject to design review approval as listed in subsection 20-10.2c.

(Ord. No. 7807, §501.7; Ord. No. 86-05; Ord. No. 89-09, §II; Ord. No. 03-01, §1; Ord. No. 04-09)

20.32.100 Nonconforming and Illegal Signs.

A. Removal of Nonconforming Signs.

1. Removal in Ten (10) Years. All signs, except off-premises signs, constructed of permanent materials such as wood or steel, which were lawful on January 3, 1977, but are prohibited herein, may be maintained by the occupant of record on that date for a period of ten (10) years from that date, at which time all signs shall be made to conform to the regulations of this Chapter, or shall be removed entirely within the time period.

2. Removal in One (1) Year. Off-premises signs, animated signs and flashing or other nonconforming lights installed prior to January 3, 1977,

shall be removed, disconnected or modified to conform within one (1) year following adoption of this ordinance.[1]

3. Immediate Removal. Streamers, pennants, banners, nonconforming in-window signs and signs which are dilapidated or abandoned may be declared nonconforming by written notice from the Director of Public Works citing the infraction and shall be promptly removed.

4. Removal Upon Change in Ownership. Whenever a business is sold or transferred to another franchise owner or lessor, or if a corporation owning the business is sold or inherited, the site shall be made to conform to all sign regulations of this Chapter within ninety (90) days.

5. Removal Upon Modification of Signage. Whenever any permanent sign is replaced or modified (including modifications to sign lighting, but not including message changes on reader boards), a sign permit shall be required, and the site shall be made to conform to all sign regulations of this Chapter prior to issuance of the sign permit.

When a substantial reduction in the amount of nonconformity is proposed by the applicant, the Planning and Zoning Commission may allow a portion of the nonconformity to remain until January 3, 1987.

B. Record of Nonconforming Signs. The Community Development Director shall compile a list of nonconforming signs and cause to be mailed to the owners of property on which such nonconforming signs are located and to the owners of the signs, if known, notice of the existence of such nonconforming signs and the time within which the same must be made to conform or be abated.

For purposes of such notification, the last-known name and address of the owner of the property in question shall be used as shown on the records of the City Clerk, or the last equalized assessment roll. The mailing of such notices shall be done primarily as a convenience to the owner of the property and of the sign. The failure to give such notice or the failure of the owner of the property or of the sign to receive the same shall in no way impair the effectiveness of the provisions of this subsection or the validity of any proceedings taken for the abatement of any such sign. Nonconforming signs shall be made to conform within the provisions of this subsection and the Uniform Building Code, or removed within the applicable period of time as set forth above.

C. Removal of Illegal Signs. Signs erected or placed contrary to the regulations of this Chapter shall be removed promptly upon notice from the Director of Public Works citing the infraction.

D. Removal by the City. In the event the sign(s) are not removed by the owner as required by paragraphs A or C above, the Community Development Director shall order the sign(s) removed by the owner of the property or any other person known to be responsible for the sign(s). If a nonconforming or illegal sign is not removed or made to conform within thirty (30) days after written notice, the Community Development Director shall remove, or cause to be removed, the sign or signs, and all costs incurred by the City shall become a lien against the property. The Community Development Director may establish a reasonable fee schedule for recovery of costs under this subsection. No new City permit of any type shall be issued until the lien has been paid in full.
(Ord. No. 04-09)

Planning & Zoning Commission Meeting Minutes Excerpt
April 24, 2019

7-1. Proposed Amendments to Chapter 20.32 "Signs" of the Albany Municipal Code – As part of the 2019-2021 City Council Strategic Plan, the Planning & Zoning Commission will initiate efforts to amend Chapter 20.32 "Signs" of the Albany Municipal Code.

Recommendation: Staff recommends that the Planning & Zoning Commission adopt Resolution 2019-07 a Resolution of Intention to amend Chapter 20.32 "Signs" of the Albany Municipal Code.

CEQA: The project is exempt pursuant to Section 15061(b)(3).

Planning Manager Hersch presented the staff report dated April 24, 2019.

PUBLIC HEARING OPENED

Peter Goodman remarked that the Arts Committee felt murals would be a great contribution to the vitality of the City's commercial districts. He suggested the Commission define a mural such that it is clearly not signage.

PUBLIC HEARING CLOSED

Chair Watty reported the use of color and language associated with a specific business distinguishes a sign from a mural. Language providing clarity about murals and signage could be included in the Code revisions. Each zoning district should have different sign standards. The Solano district could have more conservative but pro pedestrian and business signage. Projecting signs and blade signs are critical. In the Solano and San Pablo districts, signs should not cover character-defining features of buildings. In the Solano district, sign illumination is important. Signs should be placed below transom level and indirectly illuminated or halo lit. In the San Pablo, CMX, and Waterfront districts, signs can be slightly larger and illuminated but should not cover character-defining building features. Monument signs should be allowed in the Waterfront and Cleveland districts only. The number of signs on a storefront should be limited, and the size should be based on the size of the frontage. When a business closes, signage should be required to be removed within a specific timeframe. Perhaps the Commission can discuss the primary building face when buildings are located on corner lots and have separate and distinct commercial spaces. Roof signs should be prohibited on Solano and San Pablo. The Code limits commercial or identifying nameplates to 1 square foot in area, and "per business" should be added to the language.

When asked, Planning Manager Hersch advised that provisions within Chapter 20.32 address abandonment of signage, but the City does not have the resources to enforce the provisions.

Commissioner Jennings agreed with defining objective standards for signage size, lighting, and location. When an applicant proposes a sign that complies with the standards and that is allowed in the district, the Commission should not have to review it. The Commission should review proposed sign programs, or an applicant request for an

exception. Perhaps the Code provisions about authority to review could be reduced or eliminated. Banners should be exempt if they are temporary.

Commissioner Donaldson suggested the Commission utilize the San Pablo Avenue Design Guidelines as a reference for signage standards in the San Pablo district. He suggested staff contact Anne Burns at the City of Berkeley for recommendations regarding signage. He concurred with having different regulations for each zoning district. He questioned whether the Commission should review City signage. He concurred with requiring storefront signage to be in proportion to the storefront.

Commissioner MacLeod concurred with comments regarding different regulations for each zoning district based on whether the district is oriented to pedestrians, autos, or freeways. He liked the concept of integrating signage with architectural features and not obscuring architectural features. The Commission should consider limitations or standards for awnings.

Motion to adopt Resolution 2019-07, a Resolution of Intention to amend Chapter 20.32, "Signs," of the Albany Municipal Code. Donaldson
Seconded by Watty

AYES:	Donaldson, Jennings, MacLeod, Watty
NAYES:	None
ABSTAINING:	None
ABSENT:	Kent

Motion passed, 4-0-0-1

Planning & Zoning Commission Meeting Minutes Excerpt
October 23, 2019

6-3. Amendment to Chapter 20.32 "Signs" of the Albany Municipal Code – The City of Albany Planning & Zoning Commission will hold a public hearing to consider proposed amendments to Chapter 20.32 "Signs" of the Albany Municipal Code and forward a recommendation to the Albany City Council.

Recommendation: Staff recommends that the Planning & Zoning Commission review the proposed Ordinance and adopt Resolution 2019-11 forwarding a recommendation to amend Chapter 20.32 "Signs" of the Albany Municipal Code.

CEQA: The project is exempt pursuant to Section 15061(b)(3).

Planning Manager Anne Hersch presented the staff report dated October 23, 2019.

PUBLIC HEARING OPENED

None

PUBLIC HEARING CLOSED

Commissioner Donaldson suggested the Planning & Zoning Commission review monument and freestanding signs proposed in the San Pablo Commercial zoning district. Commissioner MacLeod and Vice Chair Jennings agreed with the suggestion.

Commissioner Donaldson recommended adding parking strip to the examples of City Property and Public Rights-of-Way.

Commissioners discussed Section 20.32.060.C and Table 1.20.32.050.

Vice Chair Jennings suggested changing the date signage shall be removed from a closed business to 30 days from the date of closure; moving Section 20.32.030 to follow Section 20.32.010; removing commercial mascot from Section 20.32.030; deleting "constitutionally protected" from Section 20.32.035; and using defined terms throughout the proposed Ordinance. Street banner and window sign-temporary are shown as exempt from a permit in Section 20.32.045; however, Table 1.20.32.090 shows a permit is required for them. The list in Section 20.32.065 is not necessary given Table 1.20.32.075 and Table 1.20.32.090. The second sentence of Section 20.32.070 can be deleted, and "except as provided in Section 20.32.035" can be added to the beginning of the paragraph. Either Table 1.20.32.075 or Table 1.20.32.090 could be deleted. Section 20.32.085 needs an introductory phrase. Section 20.32.085.A needs clarifying as to whether the total applies to a lot or frontage or something else. Perhaps Section 20.32.085 and Section 20.32.095 could be sequential. Section 20.32.100 could be clarified to indicate when the provision applies.

Commissioner Donaldson suggested adding a footnote for Banner in Table 1.20.32.090 indicating a banner is exempt for 30 days only. In Table 1.20.32.075, "applications referred by Community Development Director" should remain in the provisions if the table is deleted.

Motion to continue consideration of Resolution 2019-11 to November 13, 2019.
Jennings
Seconded by Donaldson
AYES: Donaldson, MacLeod, Jennings
NAYES: None
ABSTAIN: None
ABSENT: Kent, Watty
Motion passed, 3-0-0-2

Temporary Directional Signs Lead U.S. Strictest First Amend

by Margaret Rosequist

The U.S. Supreme Court issued its much anticipated opinion in *Reed v. Town of Gilbert* on June 18, 2015, finding that the sign regulations in Gilbert, Arizona, violated the First Amendment. Although *Reed* considered only — and found unconstitutional — distinctions the town made under its sign ordinance between different types of noncommercial signs, the ruling's impact is potentially far-reaching for California cities, because the court articulated an unforgiving standard for assessing the content neutrality of any restrictions under a city's sign ordinance that impact speech rights.

Margaret Rosequist is an attorney with the law firm of Meyers Nave and can be reached at mrosequist@meyersnave.com.

Supreme Court to the ment Scrutiny

The images shown here are replicas of photos included in the Reed brief, which showed political signage and a directional sign for a local church.

Background on *Reed*

The *Reed* plaintiffs, a pastor and his small "homeless" church, had placed temporary directional signs throughout the Town of Gilbert directing people to the church's weekly meetings, which were held in different locations because the church lacked a permanent location. The town cited the plaintiffs for, among other things, posting their signs in violation of the timing limits allowed under the town's sign ordinance.

The plaintiffs filed a lawsuit against the town, alleging that the regulations violated their First Amendment rights because other noncommercial signs with political or ideological messages were allowed to be posted for a longer duration and had different size limitations under the ordinance. The town contended that the ordinance did not violate the First Amendment because it was "content neutral" — it did not favor particular ideas or messages over others and served the town's important interests in regulating safety and aesthetics.

The Ninth Circuit Court of Appeals upheld the validity of the town's distinctions between the different types of noncommercial speech under the ordinance, but the U.S. Supreme Court unanimously reversed. The Supreme Court held that the distinctions in the ordinance were not content neutral and therefore violated the First Amendment.

continued

About Legal Notes

This column is provided as general information and not as legal advice. The law is constantly evolving, and attorneys can and do disagree about what the law requires. Local agencies interested in determining how the law applies in a particular situation should consult their local agency attorneys.

The requirement for content neutrality is not limited to sign regulations.

The *Reed* opinion also set forth a rigid test for assessing content neutrality and mandates that "strict scrutiny" judicial review applies to laws that target speech based on its communicative content. In the wake of *Reed,* cities should review and possibly reconsider the language used in their sign regulations to assess for content neutrality under the strict test articulated by the Supreme Court.

Content-Neutrality Test

The *Reed* court held that the distinctions enacted by the Town of Gilbert in its sign ordinance were content based because the speech in local signs was treated differently based on whether the message was ideological, political or directional. Under *Reed,* "Government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed." The Supreme Court found that the Ninth Circuit had incorrectly found the regulations to be content neutral and incorrectly applied a lower "intermediate" standard of judicial review to find the restrictions constitutional. Instead, the high court ruled that because the restrictions were content based, this triggered the higher strict scrutiny standard of review. Regulations reviewed under strict scrutiny are presumed to be invalid, and the court then unsurprisingly found that under this test the town's restrictions violated the First Amendment.

The court also explained that just because a government agency has a benign or reasonable intent for enactment does not lead to the conclusion that its sign restrictions are content neutral or constitutional. It is not necessary to show discriminatory intent on the part of an agency that enacts a specific regulation. Content-based restrictions on speech are unconstitutional whether or not they are made with a discriminatory motive. The mere fact that a sign ordinance calls out specific types of content for different treatment is likely sufficient to subject the regulation to strict scrutiny review.

Restrictions That Will Survive Post-*Reed*

The majority opinion in *Reed* provides a short list of the types of city sign regulations that will continue to be found legally sound. Specifically, regulations that have nothing to do with a sign's message — such as restrictions regulating size, materials, lighting, moving parts and portability — remain permissible.

The opinion also notes that cities can go a long way toward entirely forbidding the posting of signs on public property as long as they do so in an evenhanded and content-neutral way. In contrast, cities should be wary of banning signage on private residential property, as earlier Supreme Court precedent explains that a restriction closing down an entire medium of speech in one's own front yard is unconstitutional. The *Reed* opinion also finds that content-based distinctions that are supported by a compelling interest in vehicle and pedestrian safety (such as warning signs marking hazards, signs directing traffic or street numbers associated with private houses) may survive strict scrutiny review.

The concurring opinion in *Reed* expanded on the list of content-neutral sign regulations cities can still consider, identifying (among others) rules that:

- Regulate the location of signs;
- Restrict the total number of signs allowed per mile of roadway;
- Distinguish between signs with fixed messages and electronic signs with messages that change; and
- Distinguish between on-premises and off-premises signs.

Looking for Footnotes?

For a fully footnoted version, read this article online at www.westerncity.com.

Reed's Impact on Commercial Speech Regulations

Commentators and the courts have already considered the impact of *Reed* on local commercial speech regulations and, in particular, on the Supreme Court's earlier rulings upholding on-site/off-site and commercial/noncommercial distinctions in billboard regulations.

Given the *Reed* concurrence approving of the on-site/off-site distinction for signs, it appears likely that an on-site/off-site distinction in a city's sign ordinance — with an accompanying exemption for noncommercial signs — will continue to be valid. In fact, the California federal district courts that have considered the issue have found that because *Reed* considered only noncommercial speech, the case does not disrupt the current commercial speech regulatory framework for signs.

California Constitutional Considerations

One issue for California cities, however, is the continuing viability of the on-site/off-site and commercial/noncommercial sign distinctions under a California constitutional analysis. While several federal courts have found on-site/off-site and commercial/noncommercial distinctions to be valid under the California Constitution, a recent state trial court found these distinctions in the City of Los Angeles' sign ordinance were invalid as content-based distinctions under the California Constitution. The case, *Lamar Central Outdoor, LLC v. City of Los Angeles,* is pending in the California Court of Appeal.

Lamar involves the constitutionality of the city's billboard regulations under the Liberty of Speech clause (the state's counterpart to the First Amendment) in the California Constitution. The Ninth Circuit has repeatedly upheld the city's billboard regulations under federal law, but the trial court found the regulations failed to pass muster under the state's Constitution. Among other items, the trial court found that distinctions between commercial and noncommercial messages and between on-site and off-site signs are content based and do not meet the strict scrutiny standard of review.

The trial court's ruling in *Lamar* is not binding on other cities. The League has filed an *amicus* (friend-of-the-court) brief supporting Los Angeles in the Court of Appeal, arguing that on-site/off-site and commercial/noncommercial sign distinctions in a sign ordinance remain constitutional under the California Constitution as well as under the federal Constitution, and that the intermediate standard of judicial review applies rather than strict scrutiny.

continued

Reed's Impact Beyond Sign Regulations

The requirement for content neutrality is not limited to sign regulations, and some courts have applied the *Reed* test in arenas outside sign ordinances. In particular, the federal Seventh Circuit Court of Appeals reversed its initial ruling upholding restrictions on panhandling in light of the *Reed* ruling. The regulation considered in that case prohibited oral requests for an immediate donation of money but allowed oral pleas to send money later. The Seventh Circuit found that under *Reed* the restriction was content based as it applied to particular speech because of the topic discussed or the idea or message expressed.

The ruling's impact is potentially far-reaching for California cities.

In contrast, the Ninth Circuit Court of Appeals had noted before the *Reed* decision that regulations prohibiting the immediate hand-to-hand exchange of money (and that do not distinguish between oral or written requests) may be content neutral as such regulations are directed at the conduct (exchange of money) rather than the speech. It is unclear whether such a restriction will stand up to the *Reed* test, and it will remain challenging for California cities to carefully craft solicitation or panhandling restrictions that are deemed by the courts to be directed at conduct alone and not at the topic or the message of the speech.

Conclusion

Given the Supreme Court's ruling in *Reed,* California cities should ensure that their sign codes comply with the court's strict approach to defining content neutrality. Cities may also want to consider evaluating other restrictions impacting First Amendment rights, such as panhandling or solicitation regulations.

But *Reed* makes clear that cities may continue to regulate signs unrelated to the message itself — such as regulating size and location. Cities may also consider applying an evenhanded ban on signs with very limited content-based exemptions supported by a compelling safety interest, such as signs identifying hazards. Cities may also, with some caution, look to the more expansive list in the *Reed* concurrence as additional types of regulations to consider — including the on-site/off-site distinctions commonly used for billboard regulations. And finally, cities will also want to closely follow the *Lamar* case as the state Court of Appeal considers the validity of the on-site/off-site and commercial/noncommercial distinctions under the California Constitution. ■

Upcoming Webinar on Sign Regulation

The League will conduct a webinar on Feb. 24, 2016, on sign regulation issues in California cities. To register, visit www.cacities.org/events.

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

REED ET AL. *v*. TOWN OF GILBERT, ARIZONA, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 13–502. Argued January 12, 2015—Decided June 18, 2015

Gilbert, Arizona (Town), has a comprehensive code (Sign Code or Code) that prohibits the display of outdoor signs without a permit, but exempts 23 categories of signs, including three relevant here. "Ideological Signs," defined as signs "communicating a message or ideas" that do not fit in any other Sign Code category, may be up to 20 square feet and have no placement or time restrictions. "Political Signs," defined as signs "designed to influence the outcome of an election," may be up to 32 square feet and may only be displayed during an election season. "Temporary Directional Signs," defined as signs directing the public to a church or other "qualifying event," have even greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the "qualifying event" and 1 hour after.

Petitioners, Good News Community Church (Church) and its pastor, Clyde Reed, whose Sunday church services are held at various temporary locations in and near the Town, posted signs early each Saturday bearing the Church name and the time and location of the next service and did not remove the signs until around midday Sunday. The Church was cited for exceeding the time limits for displaying temporary directional signs and for failing to include an event date on the signs. Unable to reach an accommodation with the Town, petitioners filed suit, claiming that the Code abridged their freedom of speech. The District Court denied their motion for a preliminary injunction, and the Ninth Circuit affirmed, ultimately concluding that the Code's sign categories were content neutral, and that the Code satisfied the intermediate scrutiny accorded to content-neutral regulations of speech.

Held: The Sign Code's provisions are content-based regulations of

Syllabus

speech that do not survive strict scrutiny. Pp. 6–17.

(a) Because content-based laws target speech based on its communicative content, they are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *E.g., R. A. V.* v. *St. Paul*, 505 U. S. 377, 395. Speech regulation is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g., Sorrell* v. *IMS Health, Inc.*, 564 U. S. ___, ___–___. And courts are required to consider whether a regulation of speech "on its face" draws distinctions based on the message a speaker conveys. *Id.,* at ___. Whether laws define regulated speech by particular subject matter or by its function or purpose, they are subject to strict scrutiny. The same is true for laws that, though facially content neutral, cannot be " 'justified without reference to the content of the regulated speech,' " or were adopted by the government "because of disagreement with the message" conveyed. *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791. Pp. 6–7.

(b) The Sign Code is content based on its face. It defines the categories of temporary, political, and ideological signs on the basis of their messages and then subjects each category to different restrictions. The restrictions applied thus depend entirely on the sign's communicative content. Because the Code, on its face, is a content-based regulation of speech, there is no need to consider the government's justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny. Pp. 7.

(c) None of the Ninth Circuit's theories for its contrary holding is persuasive. Its conclusion that the Town's regulation was not based on a disagreement with the message conveyed skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of "animus toward the ideas contained" in the regulated speech. *Cincinnati* v. *Discovery Network, Inc.,* 507 U. S. 410, 429. Thus, an innocuous justification cannot transform a facially content-based law into one that is content neutral. A court must evaluate each question—whether a law is content based on its face and whether the purpose and justification for the law are content based—before concluding that a law is content neutral. *Ward* does not require otherwise, for its framework applies only to a content-neutral statute.

The Ninth Circuit's conclusion that the Sign Code does not single out any idea or viewpoint for discrimination conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints

is a "more blatant" and "egregious form of content discrimination," *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829, but "[t]he First Amendment's hostility to content-based regulation [also] extends . . . to prohibition of public discussion of an entire topic," *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537. The Sign Code, a paradigmatic example of content-based discrimination, singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter.

The Ninth Circuit also erred in concluding that the Sign Code was not content based because it made only speaker-based and event-based distinctions. The Code's categories are not speaker-based—the restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. And even if the sign categories were speaker based, that would not automatically render the law content neutral. Rather, "laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference." *Turner Broadcasting System, Inc.* v. *FCC*, 512 U. S. 622, 658. This same analysis applies to event-based distinctions. Pp. 8–14.

(d) The Sign Code's content-based restrictions do not survive strict scrutiny because the Town has not demonstrated that the Code's differentiation between temporary directional signs and other types of signs furthers a compelling governmental interest and is narrowly tailored to that end. See *Arizona Free Enterprise Club's Freedom Club PAC* v. *Bennett*, 564 U. S. ___, ___. Assuming that the Town has a compelling interest in preserving its aesthetic appeal and traffic safety, the Code's distinctions are highly underinclusive. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town when other types of signs create the same problem. See *Discovery Network*, *supra,* at 425. Nor has it shown that temporary directional signs pose a greater threat to public safety than ideological or political signs. Pp. 14–15.

(e) This decision will not prevent governments from enacting effective sign laws. The Town has ample content-neutral options available to resolve problems with safety and aesthetics, including regulating size, building materials, lighting, moving parts, and portability. And the Town may be able to forbid postings on public property, so long as it does so in an evenhanded, content-neutral manner. See *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789, 817. An ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—*e.g.,* warning signs marking hazards on private property or signs directing traffic—might also survive strict scrutiny. Pp. 16–17.

Syllabus

707 F. 3d 1057, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, ALITO, and SOTOMAYOR, JJ., joined. ALITO, J., filed a concurring opinion, in which KENNEDY and SOTOMAYOR, JJ., joined. BREYER, J., filed an opinion concurring in the judgment. KAGAN, J., filed an opinion concurring in the judgment, in which GINSBURG and BREYER, JJ., joined

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE THOMAS delivered the opinion of the Court.

The town of Gilbert, Arizona (or Town), has adopted a comprehensive code governing the manner in which people may display outdoor signs. Gilbert, Ariz., Land Development Code (Sign Code or Code), ch. 1, §4.402 (2005).[1] The Sign Code identifies various categories of signs based on the type of information they convey, then subjects each category to different restrictions. One of the categories is "Temporary Directional Signs Relating to a Qualifying Event," loosely defined as signs directing the public to a meeting of a nonprofit group. §4.402(P). The Code imposes more stringent restrictions on these signs than it does on signs conveying other messages. We hold that these provisions are content-based regulations of speech that cannot survive strict scrutiny.

[1] The Town's Sign Code is available online at http://www.gilbertaz.gov/departments/development-service/planning-development/land-development-code (as visited June 16, 2015, and available in Clerk of Court's case file).

I

A

The Sign Code prohibits the display of outdoor signs anywhere within the Town without a permit, but it then exempts 23 categories of signs from that requirement. These exemptions include everything from bazaar signs to flying banners. Three categories of exempt signs are particularly relevant here.

The first is "Ideological Sign[s]." This category includes any "sign communicating a message or ideas for noncommercial purposes that is not a Construction Sign, Directional Sign, Temporary Directional Sign Relating to a Qualifying Event, Political Sign, Garage Sale Sign, or a sign owned or required by a governmental agency." Sign Code, Glossary of General Terms (Glossary), p. 23 (emphasis deleted). Of the three categories discussed here, the Code treats ideological signs most favorably, allowing them to be up to 20 square feet in area and to be placed in all "zoning districts" without time limits. §4.402(J).

The second category is "Political Sign[s]." This includes any "temporary sign designed to influence the outcome of an election called by a public body." Glossary 23.[2] The Code treats these signs less favorably than ideological signs. The Code allows the placement of political signs up to 16 square feet on residential property and up to 32 square feet on nonresidential property, undeveloped municipal property, and "rights-of-way." §4.402(I).[3] These signs may be displayed up to 60 days before a primary election and up to 15 days following a general election. *Ibid.*

---

[2] A "Temporary Sign" is a "sign not permanently attached to the ground, a wall or a building, and not designed or intended for permanent display." Glossary 25.

[3] The Code defines "Right-of-Way" as a "strip of publicly owned land occupied by or planned for a street, utilities, landscaping, sidewalks, trails, and similar facilities." *Id.,* at 18.

The third category is "Temporary Directional Signs Relating to a Qualifying Event." This includes any "Temporary Sign intended to direct pedestrians, motorists, and other passersby to a 'qualifying event.'" Glossary 25 (emphasis deleted). A "qualifying event" is defined as any "assembly, gathering, activity, or meeting sponsored, arranged, or promoted by a religious, charitable, community service, educational, or other similar non-profit organization." *Ibid.* The Code treats temporary directional signs even less favorably than political signs.[4] Temporary directional signs may be no larger than six square feet. §4.402(P). They may be placed on private property or on a public right-of-way, but no more than four signs may be placed on a single property at any time. *Ibid.* And, they may be displayed no more than 12 hours before the "qualifying event" and no more than 1 hour afterward. *Ibid.*

B

Petitioners Good News Community Church (Church) and its pastor, Clyde Reed, wish to advertise the time and location of their Sunday church services. The Church is a small, cash-strapped entity that owns no building, so it holds its services at elementary schools or other locations in or near the Town. In order to inform the public about its services, which are held in a variety of different loca-

---

[4]The Sign Code has been amended twice during the pendency of this case. When litigation began in 2007, the Code defined the signs at issue as "Religious Assembly Temporary Direction Signs." App. 75. The Code entirely prohibited placement of those signs in the public right-of-way, and it forbade posting them in any location for more than two hours before the religious assembly or more than one hour afterward. *Id.,* at 75–76. In 2008, the Town redefined the category as "Temporary Directional Signs Related to a Qualifying Event," and it expanded the time limit to 12 hours before and 1 hour after the "qualifying event." *Ibid.* In 2011, the Town amended the Code to authorize placement of temporary directional signs in the public right-of-way. *Id.,* at 89.

tions, the Church began placing 15 to 20 temporary signs around the Town, frequently in the public right-of-way abutting the street. The signs typically displayed the Church's name, along with the time and location of the upcoming service. Church members would post the signs early in the day on Saturday and then remove them around midday on Sunday. The display of these signs requires little money and manpower, and thus has proved to be an economical and effective way for the Church to let the community know where its services are being held each week.

This practice caught the attention of the Town's Sign Code compliance manager, who twice cited the Church for violating the Code. The first citation noted that the Church exceeded the time limits for displaying its temporary directional signs. The second citation referred to the same problem, along with the Church's failure to include the date of the event on the signs. Town officials even confiscated one of the Church's signs, which Reed had to retrieve from the municipal offices.

Reed contacted the Sign Code Compliance Department in an attempt to reach an accommodation. His efforts proved unsuccessful. The Town's Code compliance manager informed the Church that there would be "no leniency under the Code" and promised to punish any future violations.

Shortly thereafter, petitioners filed a complaint in the United States District Court for the District of Arizona, arguing that the Sign Code abridged their freedom of speech in violation of the First and Fourteenth Amendments. The District Court denied the petitioners' motion for a preliminary injunction. The Court of Appeals for the Ninth Circuit affirmed, holding that the Sign Code's provision regulating temporary directional signs did not regulate speech on the basis of content. 587 F. 3d 966, 979 (2009). It reasoned that, even though an enforcement

officer would have to read the sign to determine what provisions of the Sign Code applied to it, the "'kind of cursory examination'" that would be necessary for an officer to classify it as a temporary directional sign was "not akin to an officer synthesizing the expressive content of the sign." *Id.*, at 978. It then remanded for the District Court to determine in the first instance whether the Sign Code's distinctions among temporary directional signs, political signs, and ideological signs nevertheless constituted a content-based regulation of speech.

On remand, the District Court granted summary judgment in favor of the Town. The Court of Appeals again affirmed, holding that the Code's sign categories were content neutral. The court concluded that "the distinctions between Temporary Directional Signs, Ideological Signs, and Political Signs . . . are based on objective factors relevant to Gilbert's creation of the specific exemption from the permit requirement and do not otherwise consider the substance of the sign." 707 F. 3d 1057, 1069 (CA9 2013). Relying on this Court's decision in *Hill* v. *Colorado*, 530 U. S. 703 (2000), the Court of Appeals concluded that the Sign Code is content neutral. 707 F. 3d, at 1071–1072. As the court explained, "Gilbert did not adopt its regulation of speech because it disagreed with the message conveyed" and its "interests in regulat[ing] temporary signs are unrelated to the content of the sign." *Ibid.* Accordingly, the court believed that the Code was "content-neutral as that term [has been] defined by the Supreme Court." *Id.,* at 1071. In light of that determination, it applied a lower level of scrutiny to the Sign Code and concluded that the law did not violate the First Amendment. *Id.*, at 1073–1076.

We granted certiorari, 573 U. S. ___ (2014), and now reverse.

II

A

The First Amendment, applicable to the States through the Fourteenth Amendment, prohibits the enactment of laws "abridging the freedom of speech." U. S. Const., Amdt. 1. Under that Clause, a government, including a municipal government vested with state authority, "has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 95 (1972). Content-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *R. A. V.* v. *St. Paul*, 505 U. S. 377, 395 (1992); *Simon & Schuster, Inc.* v. *Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 115, 118 (1991).

Government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g., Sorrell* v. *IMS Health, Inc.*, 564 U. S. ___, ___–___ (2011) (slip op., at 8–9); *Carey* v. *Brown*, 447 U. S. 455, 462 (1980); *Mosley*, *supra,* at 95. This commonsense meaning of the phrase "content based" requires a court to consider whether a regulation of speech "on its face" draws distinctions based on the message a speaker conveys. *Sorrell*, *supra,* at ___ (slip op., at 8). Some facial distinctions based on a message are obvious, defining regulated speech by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose. Both are distinctions drawn based on the message a speaker conveys, and, therefore, are subject to strict scrutiny.

Our precedents have also recognized a separate and additional category of laws that, though facially content neutral, will be considered content-based regulations of speech: laws that cannot be "'justified without reference to

the content of the regulated speech,'" or that were adopted by the government "because of disagreement with the message [the speech] conveys," *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791 (1989). Those laws, like those that are content based on their face, must also satisfy strict scrutiny.

B

The Town's Sign Code is content based on its face. It defines "Temporary Directional Signs" on the basis of whether a sign conveys the message of directing the public to church or some other "qualifying event." Glossary 25. It defines "Political Signs" on the basis of whether a sign's message is "designed to influence the outcome of an election." *Id.,* at 24. And it defines "Ideological Signs" on the basis of whether a sign "communicat[es] a message or ideas" that do not fit within the Code's other categories. *Id.,* at 23. It then subjects each of these categories to different restrictions.

The restrictions in the Sign Code that apply to any given sign thus depend entirely on the communicative content of the sign. If a sign informs its reader of the time and place a book club will discuss John Locke's Two Treatises of Government, that sign will be treated differently from a sign expressing the view that one should vote for one of Locke's followers in an upcoming election, and both signs will be treated differently from a sign expressing an ideological view rooted in Locke's theory of government. More to the point, the Church's signs inviting people to attend its worship services are treated differently from signs conveying other types of ideas. On its face, the Sign Code is a content-based regulation of speech. We thus have no need to consider the government's justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny.

C

In reaching the contrary conclusion, the Court of Appeals offered several theories to explain why the Town's Sign Code should be deemed content neutral. None is persuasive.

1

The Court of Appeals first determined that the Sign Code was content neutral because the Town "did not adopt its regulation of speech [based on] disagree[ment] with the message conveyed," and its justifications for regulating temporary directional signs were "unrelated to the content of the sign." 707 F. 3d, at 1071–1072. In its brief to this Court, the United States similarly contends that a sign regulation is content neutral—even if it expressly draws distinctions based on the sign's communicative content—if those distinctions can be "'justified without reference to the content of the regulated speech.'" Brief for United States as *Amicus Curiae* 20, 24 (quoting *Ward, supra*, at 791; emphasis deleted).

But this analysis skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of "animus toward the ideas contained" in the regulated speech. *Cincinnati* v. *Discovery Network, Inc.,* 507 U. S. 410, 429 (1993). We have thus made clear that "'[i]llicit legislative intent is not the *sine qua non* of a violation of the First Amendment,'" and a party opposing the government "need adduce 'no evidence of an improper censorial motive.'" *Simon & Schuster, supra,* at 117. Although "a content-based purpose may be sufficient in certain circumstances to show that a regulation is content based, it is not necessary." *Turner Broadcasting System, Inc.* v. *FCC*, 512 U. S. 622, 642 (1994). In other words, an

innocuous justification cannot transform a facially content-based law into one that is content neutral.

That is why we have repeatedly considered whether a law is content neutral on its face *before* turning to the law's justification or purpose. See, *e.g., Sorrell*, *supra,* at ___–___ (slip op., at 8–9) (statute was content based "on its face," and there was also evidence of an impermissible legislative motive); *United States* v. *Eichman*, 496 U. S. 310, 315 (1990) ("Although the [statute] contains no explicit content-based limitation on the scope of prohibited conduct, it is nevertheless clear that the Government's asserted *interest* is related to the suppression of free expression" (internal quotation marks omitted)); *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789, 804 (1984) ("The text of the ordinance is neutral," and "there is not even a hint of bias or censorship in the City's enactment or enforcement of this ordinance"); *Clark* v. *Community for Creative Non-Violence*, 468 U. S. 288, 293 (1984) (requiring that a facially content-neutral ban on camping must be "justified without reference to the content of the regulated speech"); *United States* v. *O'Brien*, 391 U. S. 367, 375, 377 (1968) (noting that the statute "on its face deals with conduct having no connection with speech," but examining whether the "the governmental interest is unrelated to the suppression of free expression"). Because strict scrutiny applies either when a law is content based on its face or when the purpose and justification for the law are content based, a court must evaluate each question before it concludes that the law is content neutral and thus subject to a lower level of scrutiny.

The Court of Appeals and the United States misunderstand our decision in *Ward* as suggesting that a government's purpose is relevant even when a law is content based on its face. That is incorrect. *Ward* had nothing to say about facially content-based restrictions because it involved a facially content-*neutral* ban on the use, in a

city-owned music venue, of sound amplification systems not provided by the city. 491 U. S., at 787, and n. 2. In that context, we looked to governmental motive, including whether the government had regulated speech "because of disagreement" with its message, and whether the regulation was "'justified without reference to the content of the speech.'" *Id.,* at 791. But *Ward*'s framework "applies only if a statute is content neutral." *Hill*, 530 U. S., at 766 (KENNEDY, J., dissenting). Its rules thus operate "to protect speech," not "to restrict it." *Id.,* at 765.

The First Amendment requires no less. Innocent motives do not eliminate the danger of censorship presented by a facially content-based statute, as future government officials may one day wield such statutes to suppress disfavored speech. That is why the First Amendment expressly targets the operation of the laws—*i.e.,* the "abridg[ement] of speech"—rather than merely the motives of those who enacted them. U. S. Const., Amdt. 1. "'The vice of content-based legislation . . . is not that it is always used for invidious, thought-control purposes, but that it lends itself to use for those purposes.'" *Hill, supra,* at 743 (SCALIA, J., dissenting).

For instance, in *NAACP* v. *Button*, 371 U. S. 415 (1963), the Court encountered a State's attempt to use a statute prohibiting "'improper solicitation'" by attorneys to outlaw litigation-related speech of the National Association for the Advancement of Colored People. *Id.,* at 438. Although *Button* predated our more recent formulations of strict scrutiny, the Court rightly rejected the State's claim that its interest in the "regulation of professional conduct" rendered the statute consistent with the First Amendment, observing that "it is no answer . . . to say . . . that the purpose of these regulations was merely to insure high professional standards and not to curtail free expression." *Id.,* at 438–439. Likewise, one could easily imagine a Sign Code compliance manager who disliked the Church's

substantive teachings deploying the Sign Code to make it more difficult for the Church to inform the public of the location of its services. Accordingly, we have repeatedly "rejected the argument that 'discriminatory . . . treatment is suspect under the First Amendment only when the legislature intends to suppress certain ideas.'" *Discovery Network,* 507 U. S., at 429. We do so again today.

2

The Court of Appeals next reasoned that the Sign Code was content neutral because it "does not mention any idea or viewpoint, let alone single one out for differential treatment." 587 F. 3d, at 977. It reasoned that, for the purpose of the Code provisions, "[i]t makes no difference which candidate is supported, who sponsors the event, or what ideological perspective is asserted." 707 F. 3d, at 1069.

The Town seizes on this reasoning, insisting that "content based" is a term of art that "should be applied flexibly" with the goal of protecting "viewpoints and ideas from government censorship or favoritism." Brief for Respondents 22. In the Town's view, a sign regulation that "does not censor or favor particular viewpoints or ideas" cannot be content based. *Ibid.* The Sign Code allegedly passes this test because its treatment of temporary directional signs does not raise any concerns that the government is "endorsing or suppressing 'ideas or viewpoints,'" *id.*, at 27, and the provisions for political signs and ideological signs "are neutral as to particular ideas or viewpoints" within those categories. *Id.*, at 37.

This analysis conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints—or the regulation of speech based on "the specific motivating ideology or the opinion or perspective of the speaker"—is a "more blatant" and "egregious form of

content discrimination." *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). But it is well established that "[t]he First Amendment's hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic." *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537 (1980).

Thus, a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter. *Ibid.* For example, a law banning the use of sound trucks for political speech—and only political speech—would be a content-based regulation, even if it imposed no limits on the political viewpoints that could be expressed. See *Discovery Network, supra,* at 428. The Town's Sign Code likewise singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter. Ideological messages are given more favorable treatment than messages concerning a political candidate, which are themselves given more favorable treatment than messages announcing an assembly of like-minded individuals. That is a paradigmatic example of content-based discrimination.

3

Finally, the Court of Appeals characterized the Sign Code's distinctions as turning on "'the content-neutral elements of who is speaking through the sign and whether and when an event is occurring.'" 707 F. 3d, at 1069. That analysis is mistaken on both factual and legal grounds.

To start, the Sign Code's distinctions are not speaker based. The restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. If a local business, for example, sought to put up

signs advertising the Church's meetings, those signs would be subject to the same limitations as such signs placed by the Church. And if Reed had decided to display signs in support of a particular candidate, he could have made those signs far larger—and kept them up for far longer—than signs inviting people to attend his church services. If the Code's distinctions were truly speaker based, both types of signs would receive the same treatment.

In any case, the fact that a distinction is speaker based does not, as the Court of Appeals seemed to believe, automatically render the distinction content neutral. Because "[s]peech restrictions based on the identity of the speaker are all too often simply a means to control content," *Citizens United* v. *Federal Election Comm'n*, 558 U. S. 310, 340 (2010), we have insisted that "laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference," *Turner,* 512 U. S., at 658. Thus, a law limiting the content of newspapers, but only newspapers, could not evade strict scrutiny simply because it could be characterized as speaker based. Likewise, a content-based law that restricted the political speech of all corporations would not become content neutral just because it singled out corporations as a class of speakers. See *Citizens United, supra*, at 340–341. Characterizing a distinction as speaker based is only the beginning—not the end—of the inquiry.

Nor do the Sign Code's distinctions hinge on "whether and when an event is occurring." The Code does not permit citizens to post signs on any topic whatsoever within a set period leading up to an election, for example. Instead, come election time, it requires Town officials to determine whether a sign is "designed to influence the outcome of an election" (and thus "political") or merely "communicating a message or ideas for noncommercial purposes" (and thus "ideological"). Glossary 24. That obvious content-based

inquiry does not evade strict scrutiny review simply because an event (*i.e.,* an election) is involved.

And, just as with speaker-based laws, the fact that a distinction is event based does not render it content neutral. The Court of Appeals cited no precedent from this Court supporting its novel theory of an exception from the content-neutrality requirement for event-based laws. As we have explained, a speech regulation is content based if the law applies to particular speech because of the topic discussed or the idea or message expressed. *Supra,* at 6. A regulation that targets a sign because it conveys an idea about a specific event is no less content based than a regulation that targets a sign because it conveys some other idea. Here, the Code singles out signs bearing a particular message: the time and location of a specific event. This type of ordinance may seem like a perfectly rational way to regulate signs, but a clear and firm rule governing content neutrality is an essential means of protecting the freedom of speech, even if laws that might seem "entirely reasonable" will sometimes be "struck down because of their content-based nature." *City of Ladue* v. *Gilleo*, 512 U. S. 43, 60 (1994) (O'Connor, J., concurring).

III

Because the Town's Sign Code imposes content-based restrictions on speech, those provisions can stand only if they survive strict scrutiny, "'which requires the Government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest,'" *Arizona Free Enterprise Club's Freedom Club PAC* v. *Bennett*, 564 U. S. ___, ___ (2011) (slip op., at 8) (quoting *Citizens United*, 558 U. S.*,* at 340). Thus, it is the Town's burden to demonstrate that the Code's differentiation between temporary directional signs and other types of signs, such as political signs and ideological signs, furthers a compelling governmental interest and is narrowly tai-

lored to that end. See *ibid.*

The Town cannot do so. It has offered only two governmental interests in support of the distinctions the Sign Code draws: preserving the Town's aesthetic appeal and traffic safety. Assuming for the sake of argument that those are compelling governmental interests, the Code's distinctions fail as hopelessly underinclusive.

Starting with the preservation of aesthetics, temporary directional signs are "no greater an eyesore," *Discovery Network*, 507 U. S., at 425, than ideological or political ones. Yet the Code allows unlimited proliferation of larger ideological signs while strictly limiting the number, size, and duration of smaller directional ones. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town while at the same time allowing unlimited numbers of other types of signs that create the same problem.

The Town similarly has not shown that limiting temporary directional signs is necessary to eliminate threats to traffic safety, but that limiting other types of signs is not. The Town has offered no reason to believe that directional signs pose a greater threat to safety than do ideological or political signs. If anything, a sharply worded ideological sign seems more likely to distract a driver than a sign directing the public to a nearby church meeting.

In light of this underinclusiveness, the Town has not met its burden to prove that its Sign Code is narrowly tailored to further a compelling government interest. Because a "'law cannot be regarded as protecting an interest of the highest order, and thus as justifying a restriction on truthful speech, when it leaves appreciable damage to that supposedly vital interest unprohibited,'" *Republican Party of Minn.* v. *White*, 536 U. S. 765, 780 (2002), the Sign Code fails strict scrutiny.

IV

Our decision today will not prevent governments from enacting effective sign laws. The Town asserts that an "'absolutist'" content-neutrality rule would render "virtually all distinctions in sign laws . . . subject to strict scrutiny," Brief for Respondents 34–35, but that is not the case. Not "all distinctions" are subject to strict scrutiny, only *content-based* ones are. Laws that are *content neutral* are instead subject to lesser scrutiny. See *Clark*, 468 U. S., at 295.

The Town has ample content-neutral options available to resolve problems with safety and aesthetics. For example, its current Code regulates many aspects of signs that have nothing to do with a sign's message: size, building materials, lighting, moving parts, and portability. See, *e.g.,* §4.402(R). And on public property, the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner. See *Taxpayers for Vincent*, 466 U. S., at 817 (upholding content-neutral ban against posting signs on public property). Indeed, some lower courts have long held that similar content-based sign laws receive strict scrutiny, but there is no evidence that towns in those jurisdictions have suffered catastrophic effects. See, *e.g., Solantic, LLC* v. *Neptune Beach*, 410 F. 3d 1250, 1264–1269 (CA11 2005) (sign categories similar to the town of Gilbert's were content based and subject to strict scrutiny); *Matthews* v. *Needham*, 764 F. 2d 58, 59–60 (CA1 1985) (law banning political signs but not commercial signs was content based and subject to strict scrutiny).

We acknowledge that a city might reasonably view the general regulation of signs as necessary because signs "take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation." *City of Ladue*, 512 U. S., at 48. At the same time, the presence of certain

signs may be essential, both for vehicles and pedestrians, to guide traffic or to identify hazards and ensure safety. A sign ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—such as warning signs marking hazards on private property, signs directing traffic, or street numbers associated with private houses—well might survive strict scrutiny. The signs at issue in this case, including political and ideological signs and signs for events, are far removed from those purposes. As discussed above, they are facially content based and are neither justified by traditional safety concerns nor narrowly tailored.

* * *

We reverse the judgment of the Court of Appeals and remand the case for proceedings consistent with this opinion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE ALITO, with whom JUSTICE KENNEDY and JUSTICE SOTOMAYOR join, concurring.

I join the opinion of the Court but add a few words of further explanation.

As the Court holds, what we have termed "content-based" laws must satisfy strict scrutiny. Content-based laws merit this protection because they present, albeit sometimes in a subtler form, the same dangers as laws that regulate speech based on viewpoint. Limiting speech based on its "topic" or "subject" favors those who do not want to disturb the status quo. Such regulations may interfere with democratic self-government and the search for truth. See *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537 (1980).

As the Court shows, the regulations at issue in this case are replete with content-based distinctions, and as a result they must satisfy strict scrutiny. This does not mean, however, that municipalities are powerless to enact and enforce reasonable sign regulations. I will not attempt to provide anything like a comprehensive list, but here are some rules that would not be content based:

Rules regulating the size of signs. These rules may distinguish among signs based on any content-neutral criteria, including any relevant criteria listed below.

Rules regulating the locations in which signs may be

placed. These rules may distinguish between free-standing signs and those attached to buildings.

Rules distinguishing between lighted and unlighted signs.

Rules distinguishing between signs with fixed messages and electronic signs with messages that change.

Rules that distinguish between the placement of signs on private and public property.

Rules distinguishing between the placement of signs on commercial and residential property.

Rules distinguishing between on-premises and off-premises signs.

Rules restricting the total number of signs allowed per mile of roadway.

Rules imposing time restrictions on signs advertising a one-time event. Rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed.*

In addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech. See *Pleasant Grove City* v. *Summum*, 555 U. S. 460, 467–469 (2009). They may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots.

Properly understood, today's decision will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives.

---

*Of course, content-neutral restrictions on speech are not necessarily consistent with the First Amendment. Time, place, and manner restrictions "must be narrowly tailored to serve the government's legitimate, content-neutral interests." *Ward* v. *Rock Against Racism*, 491 U. S. 781, 798 (1989). But they need not meet the high standard imposed on viewpoint- and content-based restrictions.

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE BREYER, concurring in the judgment.

I join JUSTICE KAGAN's separate opinion. Like JUSTICE KAGAN I believe that categories alone cannot satisfactorily resolve the legal problem before us. The First Amendment requires greater judicial sensitivity both to the Amendment's expressive objectives and to the public's legitimate need for regulation than a simple recitation of categories, such as "content discrimination" and "strict scrutiny," would permit. In my view, the category "content discrimination" is better considered in many contexts, including here, as a rule of thumb, rather than as an automatic "strict scrutiny" trigger, leading to almost certain legal condemnation.

To use content discrimination to trigger strict scrutiny sometimes makes perfect sense. There are cases in which the Court has found content discrimination an unconstitutional method for suppressing a viewpoint. *E.g., Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 828–829 (1995); see also *Boos* v. *Barry*, 485 U. S. 312, 318–319 (1988) (plurality opinion) (applying strict scrutiny where the line between subject matter and viewpoint was not obvious). And there are cases where the Court has found content discrimination to reveal that rules governing a traditional public forum are, in fact, not a neutral way of fairly managing the forum in the interest of all

speakers. *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 96 (1972) ("Once a forum is opened up to assembly or speaking by some groups, government may not prohibit others from assembling or speaking on the basis of what they intend to say"). In these types of cases, strict scrutiny is often appropriate, and content discrimination has thus served a useful purpose.

But content discrimination, while helping courts to identify unconstitutional suppression of expression, cannot and should not *always* trigger strict scrutiny. To say that it is not an automatic "strict scrutiny" trigger is not to argue against that concept's use. I readily concede, for example, that content discrimination, as a conceptual tool, can sometimes reveal weaknesses in the government's rationale for a rule that limits speech. If, for example, a city looks to litter prevention as the rationale for a prohibition against placing newsracks dispensing free advertisements on public property, why does it exempt other newsracks causing similar litter? Cf. *Cincinnati* v. *Discovery Network, Inc.*, 507 U. S. 410 (1993). I also concede that, whenever government disfavors one kind of speech, it places that speech at a disadvantage, potentially interfering with the free marketplace of ideas and with an individual's ability to express thoughts and ideas that can help that individual determine the kind of society in which he wishes to live, help shape that society, and help define his place within it.

Nonetheless, in these latter instances to use the presence of content discrimination automatically to trigger strict scrutiny and thereby call into play a strong presumption against constitutionality goes too far. That is because virtually all government activities involve speech, many of which involve the regulation of speech. Regulatory programs almost always require content discrimination. And to hold that such content discrimination triggers strict scrutiny is to write a recipe for judicial management

of ordinary government regulatory activity.

Consider a few examples of speech regulated by government that inevitably involve content discrimination, but where a strong presumption against constitutionality has no place. Consider governmental regulation of securities, *e.g.,* 15 U. S. C. §78*l* (requirements for content that must be included in a registration statement); of energy conservation labeling-practices, *e.g.,* 42 U. S. C. §6294 (requirements for content that must be included on labels of certain consumer electronics); of prescription drugs, *e.g.,* 21 U. S. C. §353(b)(4)(A) (requiring a prescription drug label to bear the symbol "Rx only"); of doctor-patient confidentiality, *e.g.,* 38 U. S. C. §7332 (requiring confidentiality of certain medical records, but allowing a physician to disclose that the patient has HIV to the patient's spouse or sexual partner); of income tax statements, *e.g.,* 26 U. S. C. §6039F (requiring taxpayers to furnish information about foreign gifts received if the aggregate amount exceeds $10,000); of commercial airplane briefings, *e.g.,* 14 CFR §136.7 (2015) (requiring pilots to ensure that each passenger has been briefed on flight procedures, such as seatbelt fastening); of signs at petting zoos, *e.g.,* N. Y. Gen. Bus. Law Ann. §399–ff(3) (West Cum. Supp. 2015) (requiring petting zoos to post a sign at every exit "'strongly recommend[ing] that persons wash their hands upon exiting the petting zoo area'"); and so on.

Nor can the majority avoid the application of strict scrutiny to all sorts of justifiable governmental regulations by relying on this Court's many subcategories and exceptions to the rule. The Court has said, for example, that we should apply less strict standards to "commercial speech." *Central Hudson Gas & Elec. Corp.* v. *Public Service Comm'n of N. Y.*, 447 U. S. 557, 562–563 (1980). But I have great concern that many justifiable instances of "content-based" regulation are noncommercial. And, worse than that, the Court has applied the heightened

"strict scrutiny" standard even in cases where the less stringent "commercial speech" standard was appropriate. See *Sorrell* v. *IMS Health Inc.*, 564 U. S. ___, ___ (2011) (BREYER, J., dissenting) (slip op., at ___). The Court has also said that "government speech" escapes First Amendment strictures. See *Rust* v. *Sullivan*, 500 U. S. 173, 193–194 (1991). But regulated speech is typically private speech, not government speech. Further, the Court has said that, "[w]hen the basis for the content discrimination consists entirely of the very reason the entire class of speech at issue is proscribable, no significant danger of idea or viewpoint discrimination exists." *R. A. V.* v. *St. Paul*, 505 U. S. 377, 388 (1992). But this exception accounts for only a few of the instances in which content discrimination is readily justifiable.

I recognize that the Court could escape the problem by watering down the force of the presumption against constitutionality that "strict scrutiny" normally carries with it. But, in my view, doing so will weaken the First Amendment's protection in instances where "strict scrutiny" should apply in full force.

The better approach is to generally treat content discrimination as a strong reason weighing against the constitutionality of a rule where a traditional public forum, or where viewpoint discrimination, is threatened, but elsewhere treat it as a rule of thumb, finding it a helpful, but not determinative legal tool, in an appropriate case, to determine the strength of a justification. I would use content discrimination as a supplement to a more basic analysis, which, tracking most of our First Amendment cases, asks whether the regulation at issue works harm to First Amendment interests that is disproportionate in light of the relevant regulatory objectives. Answering this question requires examining the seriousness of the harm to speech, the importance of the countervailing objectives, the extent to which the law will achieve those objectives,

and whether there are other, less restrictive ways of doing so. See, *e.g., United States* v. *Alvarez*, 567 U. S. ___, ___–___ (2012) (BREYER, J., concurring in judgment) (slip op., at 1–3); *Nixon* v. *Shrink Missouri Government PAC*, 528 U. S. 377, 400–403 (2000) (BREYER, J., concurring). Admittedly, this approach does not have the simplicity of a mechanical use of categories. But it does permit the government to regulate speech in numerous instances where the voters have authorized the government to regulate and where courts should hesitate to substitute judicial judgment for that of administrators.

Here, regulation of signage along the roadside, for purposes of safety and beautification is at issue. There is no traditional public forum nor do I find any general effort to censor a particular viewpoint. Consequently, the specific regulation at issue does not warrant "strict scrutiny." Nonetheless, for the reasons that JUSTICE KAGAN sets forth, I believe that the Town of Gilbert's regulatory rules violate the First Amendment. I consequently concur in the Court's judgment only.

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE KAGAN, with whom JUSTICE GINSBURG and JUSTICE BREYER join, concurring in the judgment.

Countless cities and towns across America have adopted ordinances regulating the posting of signs, while exempting certain categories of signs based on their subject matter. For example, some municipalities generally prohibit illuminated signs in residential neighborhoods, but lift that ban for signs that identify the address of a home or the name of its owner or occupant. See, *e.g.*, City of Truth or Consequences, N. M., Code of Ordinances, ch. 16, Art. XIII, §§11–13–2.3, 11–13–2.9(H)(4) (2014). In other municipalities, safety signs such as "Blind Pedestrian Crossing" and "Hidden Driveway" can be posted without a permit, even as other permanent signs require one. See, *e.g.*, Code of Athens-Clarke County, Ga., Pt. III, §7–4–7(1) (1993). Elsewhere, historic site markers—for example, "George Washington Slept Here"—are also exempt from general regulations. See, *e.g.*, Dover, Del., Code of Ordinances, Pt. II, App. B, Art. 5, §4.5(F) (2012). And similarly, the federal Highway Beautification Act limits signs along interstate highways unless, for instance, they direct travelers to "scenic and historical attractions" or advertise free coffee. See 23 U. S. C. §§131(b), (c)(1), (c)(5).

Given the Court's analysis, many sign ordinances of that kind are now in jeopardy. See *ante*, at 14 (acknowledging

that "entirely reasonable" sign laws "will sometimes be struck down" under its approach (internal quotation marks omitted)). Says the majority: When laws "single[] out specific subject matter," they are "facially content based"; and when they are facially content based, they are automatically subject to strict scrutiny. *Ante*, at 12, 16–17. And although the majority holds out hope that some sign laws with subject-matter exemptions "might survive" that stringent review, *ante*, at 17, the likelihood is that most will be struck down. After all, it is the "rare case[] in which a speech restriction withstands strict scrutiny." *Williams-Yulee* v. *Florida Bar*, 575 U. S. ___, ___ (2015) (slip op., at 9). To clear that high bar, the government must show that a content-based distinction "is necessary to serve a compelling state interest and is narrowly drawn to achieve that end." *Arkansas Writers' Project, Inc.* v. *Ragland*, 481 U. S. 221, 231 (1987). So on the majority's view, courts would have to determine that a town has a compelling interest in informing passersby where George Washington slept. And likewise, courts would have to find that a town has no other way to prevent hidden-driveway mishaps than by specially treating hidden-driveway signs. (Well-placed speed bumps? Lower speed limits? Or how about just a ban on hidden driveways?) The consequence—unless courts water down strict scrutiny to something unrecognizable—is that our communities will find themselves in an unenviable bind: They will have to either repeal the exemptions that allow for helpful signs on streets and sidewalks, or else lift their sign restrictions altogether and resign themselves to the resulting clutter.*

---

*Even in trying (commendably) to limit today's decision, JUSTICE ALITO's concurrence highlights its far-reaching effects. According to JUSTICE ALITO, the majority does not subject to strict scrutiny regulations of "signs advertising a one-time event." *Ante*, at 2 (ALITO, J., concurring). But of course it does. On the majority's view, a law with an exception for such signs "singles out specific subject matter for

Although the majority insists that applying strict scrutiny to all such ordinances is "essential" to protecting First Amendment freedoms, *ante*, at 14, I find it challenging to understand why that is so. This Court's decisions articulate two important and related reasons for subjecting content-based speech regulations to the most exacting standard of review. The first is "to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail." *McCullen* v. *Coakley*, 573 U. S. ___, ___–___ (2014) (slip op., at 8–9) (internal quotation marks omitted). The second is to ensure that the government has not regulated speech "based on hostility—or favoritism—towards the underlying message expressed." *R. A. V.* v. *St. Paul*, 505 U. S. 377, 386 (1992). Yet the subject-matter exemptions included in many sign ordinances do not implicate those concerns. Allowing residents, say, to install a light bulb over "name and address" signs but no others does not distort the marketplace of ideas. Nor does that different treatment give rise to an inference of impermissible government motive.

We apply strict scrutiny to facially content-based regulations of speech, in keeping with the rationales just described, when there is any "realistic possibility that official suppression of ideas is afoot." *Davenport* v. *Washington Ed. Assn.*, 551 U. S. 177, 189 (2007) (quoting *R. A. V.*, 505 U. S., at 390). That is always the case when the regulation facially differentiates on the basis of viewpoint. See *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). It is also the case (except in nonpublic or limited public forums) when a law restricts "discussion of an entire topic" in public debate. *Consolidated*

---

differential treatment" and "defin[es] regulated speech by particular subject matter." *Ante*, at 6, 12 (majority opinion). Indeed, the precise reason the majority applies strict scrutiny here is that "the Code singles out signs bearing a particular message: the time and location of a specific event." *Ante*, at 14.

Edison Co. of N. Y. v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537, 539–540 (1980) (invalidating a limitation on speech about nuclear power). We have stated that "[i]f the marketplace of ideas is to remain free and open, governments must not be allowed to choose 'which issues are worth discussing or debating.'" *Id.*, at 537–538 (quoting *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 96 (1972)). And we have recognized that such subject-matter restrictions, even though viewpoint-neutral on their face, may "suggest[] an attempt to give one side of a debatable public question an advantage in expressing its views to the people." *First Nat. Bank of Boston* v. *Bellotti*, 435 U. S. 765, 785 (1978); accord, *ante*, at 1 (ALITO, J., concurring) (limiting all speech on one topic "favors those who do not want to disturb the status quo"). Subject-matter regulation, in other words, may have the intent or effect of favoring some ideas over others. When that is realistically possible—when the restriction "raises the specter that the Government may effectively drive certain ideas or viewpoints from the marketplace"—we insist that the law pass the most demanding constitutional test. *R. A. V.*, 505 U. S., at 387 (quoting *Simon & Schuster, Inc.* v. *Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 116 (1991)).

But when that is not realistically possible, we may do well to relax our guard so that "entirely reasonable" laws imperiled by strict scrutiny can survive. *Ante*, at 14. This point is by no means new. Our concern with content-based regulation arises from the fear that the government will skew the public's debate of ideas—so when "that risk is inconsequential, . . . strict scrutiny is unwarranted." *Davenport*, 551 U. S., at 188; see *R. A. V.*, 505 U. S., at 388 (approving certain content-based distinctions when there is "no significant danger of idea or viewpoint discrimination"). To do its intended work, of course, the category of content-based regulation triggering strict scrutiny must

sweep more broadly than the actual harm; that category exists to create a buffer zone guaranteeing that the government cannot favor or disfavor certain viewpoints. But that buffer zone need not extend forever. We can administer our content-regulation doctrine with a dose of common sense, so as to leave standing laws that in no way implicate its intended function.

And indeed we have done just that: Our cases have been far less rigid than the majority admits in applying strict scrutiny to facially content-based laws—including in cases just like this one. See *Davenport*, 551 U. S., at 188 (noting that "we have identified numerous situations in which [the] risk" attached to content-based laws is "attenuated"). In *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789 (1984), the Court declined to apply strict scrutiny to a municipal ordinance that exempted address numbers and markers commemorating "historical, cultural, or artistic event[s]" from a generally applicable limit on sidewalk signs. *Id.*, at 792, n. 1 (listing exemptions); see *id.*, at 804–810 (upholding ordinance under intermediate scrutiny). After all, we explained, the law's enactment and enforcement revealed "not even a hint of bias or censorship." *Id.*, at 804; see also *Renton* v. *Playtime Theatres, Inc.*, 475 U. S. 41, 48 (1986) (applying intermediate scrutiny to a zoning law that facially distinguished among movie theaters based on content because it was "designed to prevent crime, protect the city's retail trade, [and] maintain property values . . . , not to suppress the expression of unpopular views"). And another decision involving a similar law provides an alternative model. In *City of Ladue* v. *Gilleo*, 512 U. S. 43 (1994), the Court assumed *arguendo* that a sign ordinance's exceptions for address signs, safety signs, and for-sale signs in residential areas did not trigger strict scrutiny. See *id.*, at 46–47, and n. 6 (listing exemptions); *id.*, at 53 (noting this assumption). We did not need to, and so did not, decide the

level-of-scrutiny question because the law's breadth made it unconstitutional under any standard.

The majority could easily have taken *Ladue*'s tack here. The Town of Gilbert's defense of its sign ordinance—most notably, the law's distinctions between directional signs and others—does not pass strict scrutiny, or intermediate scrutiny, or even the laugh test. See *ante*, at 14–15 (discussing those distinctions). The Town, for example, provides no reason at all for prohibiting more than four directional signs on a property while placing no limits on the number of other types of signs. See Gilbert, Ariz., Land Development Code, ch. I, §§4.402(J), (P)(2) (2014). Similarly, the Town offers no coherent justification for restricting the size of directional signs to 6 square feet while allowing other signs to reach 20 square feet. See §§4.402(J), (P)(1). The best the Town could come up with at oral argument was that directional signs "need to be smaller because they need to guide travelers along a route." Tr. of Oral Arg. 40. Why exactly a smaller sign better helps travelers get to where they are going is left a mystery. The absence of any sensible basis for these and other distinctions dooms the Town's ordinance under even the intermediate scrutiny that the Court typically applies to "time, place, or manner" speech regulations. Accordingly, there is no need to decide in this case whether strict scrutiny applies to every sign ordinance in every town across this country containing a subject-matter exemption.

I suspect this Court and others will regret the majority's insistence today on answering that question in the affirmative. As the years go by, courts will discover that thousands of towns have such ordinances, many of them "entirely reasonable." *Ante*, at 14. And as the challenges to them mount, courts will have to invalidate one after the other. (This Court may soon find itself a veritable Supreme Board of Sign Review.) And courts will strike down those democratically enacted local laws even though no

one—certainly not the majority—has ever explained why the vindication of First Amendment values requires that result. Because I see no reason why such an easy case calls for us to cast a constitutional pall on reasonable regulations quite unlike the law before us, I concur only in the judgment.

PLANNING & ZONING COMMISSION
RESOLUTION # 2019-07

A RESOLUTION OF INTENTION THE CITY OF ALBANY PLANNING AND ZONING COMMISSION TO AMEND CHAPTER 20.32 "SIGNS" OF THE ALBANY MUNICIPAL CODE

WHEREAS, Chapter 20 "Planning & Zoning" was comprehensively updated and adopted in 2004; and

WHEREAS, Chapter 20.32 "Signs" was established in 1978 and amended in 2014; and

WHEREAS, the Albany 2035 General Plan contains a policy and action item to address commercial signage updates the City's Sign Ordinance:

Policy LU-6.5: Signage

Treat commercial signage as an integral part of building design, and an opportunity to enhance the visual character of the city.

Action LU-6.H: Sign Ordinance Revisions

Update Section 20.32 of the Municipal Code (Sign Regulations) to reflect best practices, ensure full compliance with recent court decisions, and address local objectives such as the elimination of billboards along major thoroughfares; and

WHEREAS, the Supreme Court decision in Reed vs. Town of Gilbert, AZ in 2015 which resulted in a decision that requires amendments to Chapter 20.32 "Signs" to establish content neutrality; and

WHEREAS, the proposed modification is consistent with the City Council Strategic Plan adopted in April 2019; and

WHEREAS, Objective 3 "Maintain an attractive atmosphere in Business District" Workplan 3 "Update Sign Ordinance" is contained in the 2019-2021 Strategic Plan; and

NOW, THEREFORE, The Albany Planning and Zoning Commission does hereby resolve and adopts a Resolution of Intention to amend Chapter 20.32 "Signs" of the Albany Municipal Code.

PASSED AND ADOPTED by the Planning and Zoning Commission of the City of Albany at its meeting on the 24th day of April 2019, by the following vote:

AYES: Donaldson, Jennings, Macleod, Watty

NOES:

ABSENT: Kent

ABSTAIN:

Chair Watty

PLANNING & ZONING COMMISSION
RESOLUTION # 2019-11

A RESOLUTION OF THE CITY OF ALBANY PLANNING AND ZONING COMMISSION FORWARDING A RECOMMENDATION TO CITY COUNCIL TO AMEND CHAPTER 20.32 "SIGNS" OF THE ALBANY MUNICIPAL CODE

WHEREAS, Chapter 20 "Planning & Zoning" was comprehensively updated and adopted in 2004; and

WHEREAS, Chapter 20.32 "Signs" was established in 1978 and amended in 2014; and

WHEREAS, the Albany 2035 General Plan contains a policy and action item to address commercial signage updates the City's Sign Ordinance:

Policy LU-6.5: Signage

Treat commercial signage as an integral part of building design, and an opportunity to enhance the visual character of the city.

Action LU-6.H: Sign Ordinance Revisions

Update Section 20.32 of the Municipal Code (Sign Regulations) to reflect best practices, ensure full compliance with recent court decisions, and address local objectives such as the elimination of billboards along major thoroughfares; and

WHEREAS, the Supreme Court decision in Reed vs. Town of Gilbert, AZ in 2015 which resulted in a decision that requires amendments to Chapter 20.32 "Signs" to establish content neutrality; and

WHEREAS, the proposed modification is consistent with the City Council Strategic Plan adopted in April 2019; and

WHEREAS, Objective 3 "Maintain an attractive atmosphere in Business District" Workplan 3 "Update Sign Ordinance" is contained in the 2019-2021 Strategic Plan; and

WHEREAS, the Planning & Zoning Commission adopted Resolution of Intention 2019-07 to initiate amendments to Chapter 20.32 "Signs" of the Albany Municipal Code on April 24, 2019; and

WHEREAS, a public hearing notice was published in the West County Times and posted in three public places pursuant to California Government Code Section 65090 on October 11, 2019 for the public hearing held on October 23, 2019; and

WHEREAS, the Planning & Zoning Commission held a public hearing to discuss the proposed changes on October 23, 2019; and

WHEREAS, the Planning & Zoning Commission held a public hearing and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request;

NOW, THEREFORE, The Albany Planning and Zoning Commission does hereby resolve and adopts a Resolution of Intention to amend Chapter 20.32 "Signs" of the Albany Municipal Code.

PASSED AND ADOPTED by the Planning and Zoning Commission of the City of Albany at its meeting on the 13th day of November 2019, by the following vote:

AYES: Donaldson, Jennings, Kent, Macleod, Watty

NOES:

ABSENT:

ABSTAIN:

Chair Watty