

# MEMORANDUM

To: ZLR Comprehensive Revision of Chapter 10 Subcommittee

From: Pamela Andros, AICP, Senior Planner

Subject: Draft Dane County Sign Ordinance

Date: September 12, 2017

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In my last memo I described two key things that needed to be addressed in the county's sign ordinance. The first results from recent case law, namely the U.S. Supreme Court's June 2015 decision in *Reed v. Town of Gilbert*. In short, the outcome of that case is that sign regulations must be content-neutral. One difficulty for acting on sign regulation after this case is that it provides clear guidance about the rules that must be applied to the regulation of temporary non-commercial signs, but very little for others. There has been case law since *Reed* that has reinforced the need to be content-neutral and case law that has ruled in favor of "time, place and manner" regulation of signs.

Therefore I did my best to follow recommendations to make our new sign ordinance content neutral. This proved difficult for several items which I handled in such a fashion as to meet the test of "intermediate scrutiny" as described in legal tests that an ordinance must meet. The rest meets what is referred to as "strict scrutiny" and I feel confident that the draft meets any potential legal challenge.

The second key item was modernization of electronic signs and how they are regulated for factors such as brightness, motion and timing. The draft ordinance accomplishes this task. A few definitions were added as a result of modernizing this part of the ordinance.

Just as important as both of these, the more I worked with our current ordinance, the more I realized how much it needed a complete overhaul. As is, the ordinance is difficult for staff to follow, let alone for someone from the public trying to figure it out. My approach to this was reorganizing content and an extensive use of tables. Aside from being content neutral, the actual requirements have remained very much the same. For instance, sign location and design standards (maximum height, etc.) have remained the same. In some instances, setback requirements have changed in a way that makes more sense and is more consistent. Having compared several sign ordinance around the state, I feel this draft combines the best from several, including our own.