
PROPOSED AMENDMENTS TO CHAPTER 129, ARTICLE XXVI (SIGNS)

A brief explanation of why our sign code needs revision: As I reviewed the code, I identified several provisions in Article XXVI (Signs) that conflict with a 2015 United States Supreme Court decision, *Reed v. Town of Gilbert, Arizona*. That case established a clear rule: if a sign regulation treats signs differently based on what the sign says, it is a content-based restriction on speech and is presumptively unconstitutional.

The most significant vulnerability in our code is in the temporary sign provisions. Our current code creates separate categories for event signs and political signs, each with different size limits, different duration rules, and different placement standards based on the message the sign displays. To enforce these rules, a government official has to read the sign, determine what it says, and then decide which set of rules to apply. The Supreme Court ruled that this is, in effect, a form of government interpretation of speech, which is tantamount to censorship.

If these provisions were challenged in court today, they would almost certainly be struck down. The fix is to standardize our temporary noncommercial sign regulations so that the same rules apply regardless of what the sign says. The rules should be about size, height, number, placement, and duration, not about the message.

The redline that follows targets the provisions most clearly in conflict with the Supreme Court’s decision. Some remaining categories, such as construction signs and real estate sign, are tied to on-premises activity rather than message content and present a materially lower constitutional risk. This amendment addresses the Town’s most immediate legal exposure while preserving reasonable time, place, and manner restrictions that serve our interests in traffic safety, aesthetics, and the prevention of visual clutter.

REDLINE KEY: ~~Strikethrough red text = deleted language~~ | Underlined blue text = new language | *[Green italic = drafter’s notes]*

§ 129-185. Temporary signs.

The following signs shall be allowed without a permit, subject to the regulations contained herein:

A. Construction signs. One construction sign per construction project not exceeding 24 square feet per side in sign area in residential districts or 48 square feet per side in commercial or industrial districts, provided that such signs shall be erected no more than five days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction and shall be removed five days after completion of construction and prior- to occupancy.

[Note: Corrected “prior-to” typo in existing code.]

B. Holiday signs. Signs of a primarily decorative nature, clearly incidental and customary and commonly associated with any national, local or religious holiday, provided that such signs are not permanently displayed. Such signs shall be set back 10 feet from all boundary lines of the lot, provided that a clear area of 72 inches in height is maintained for a distance of 55 feet from the intersection of two streets, a railroad and a street or a street and driveway.

[Note: Note: Holiday signs are unchanged. This category does not create a Reed problem because it does not impose different rules based on message content — it is a blanket exemption for seasonal decorative

displays, not a set of differential restrictions. All holiday signs are treated identically regardless of which holiday they reference. Note that this category has no size limit in the current code; the only restrictions are decorative character, temporary duration, a 10-foot setback from lot boundary lines, and the sight-triangle clearance. Election Day is not a holiday under New York State law and is not contemplated by this provision. Attorney may wish to flag the absence of a size limit for future review, but it is not a Reed issue and does not need to be addressed in this amendment.]

~~**C. Political and campaign signs.** Political or campaign signs on behalf of candidates for public office or measures on election ballots. Said signs are subject to the following regulations:~~

~~(1) Said signs may be erected no earlier than 45 days prior to said election and shall be removed within five days following said election.~~

~~(2) In any zone, only one sign per candidate or measure is permitted on any one parcel of land. Said sign shall not exceed 32 square feet in aggregate area and, if detached, shall not exceed six feet in height. Said sign shall not be erected in such a manner as to constitute a roof sign. If there should be more than one tenant, each tenant shall be permitted the above-allowed dimensions.~~

~~(3) Notwithstanding the provisions of this subsection, a sign may be placed upon any legally existing sign structure but not so as to cover an already existing current sign.~~

~~(4) No political sign shall be located within or over the public right-of-way.~~

[Note: Entire subsection deleted. This is the core Reed violation; “Political and campaign signs” is a content-based classification with content-specific size, number, and duration rules. A government enforcer must read the sign’s message and decide which rules apply, which is tantamount to government censorship. Replaced by new subsection C below standardizing noncommercial signs irrespective of content.]

C. Temporary noncommercial signs. Temporary signs displaying noncommercial messages are permitted in all zoning districts subject to the following regulations:

(1) Size. Size. No individual temporary noncommercial sign shall exceed four (4) square feet in the R-1, R-2, R-3, R-M, RB-1, CR-1, CR-2, and H-1 districts, or sixteen (16) square feet in the C-1, C-2, C-3, CRT, and I-1 districts, or as otherwise established in the approved development plan for overlay and planned unit development districts.

[Note: The four (4) square foot per side limit is carried over from the existing temporary event sign provision in former subsection F, which is now folded into this subsection. This size comfortably accommodates standard yard-sign formats (typically 18”×24”, or approximately 3 sq ft) while keeping temporary signage modest in scale. Difference in residential/commercial district sign sizes is common in municipal code (4 residential 16 commercial is the standard in Clifton Park, for example). The overlay and PUD catch-all defers to whatever sign standards are established in the approved development plan for those districts.]

(2) Height. If freestanding, no temporary noncommercial sign shall exceed four (4) feet in height as measured from the ground to the highest point of the sign, including any supporting structure.

(3) Duration.

(a) Temporary noncommercial signs associated with a specific event, including but not limited to a scheduled civic, philanthropic, educational, or religious event, election, or referendum, may be erected no earlier than forty-five (45) days prior to the date of the event and shall be removed no later than five (5) days following the conclusion of the event. For purposes of this paragraph, the date of a referendum shall be the date designated for the final day of voting on such referendum, and an election shall be Election Day as designated by New York State Election Law. Signs not removed within the time period specified herein shall be subject to enforcement under § 129-251 and to removal by the Building Inspector pursuant to paragraph (9)(b) of this subsection.

(b) Temporary noncommercial signs not associated with a specific event may be displayed without durational limitation, provided that such signs are maintained in good repair.

[Note: Duration is split into two tracks. Event-associated signs: 45-day window measured from the date of the event with 5-day post-event removal. Non-event signs: permitted in perpetuity with a 7-day maintenance enforcement period.]

(5) Placement. No temporary noncommercial sign shall be located within or over the public right-of-way. No such sign shall be erected in such a manner as to constitute a roof sign. No such sign shall be attached to any utility pole, traffic sign, or traffic control device.

(6) Illumination. Temporary noncommercial signs shall not be illuminated.

(7) Materials. Temporary noncommercial signs shall be constructed of durable materials suitable for outdoor display. Signs that become torn, faded, or dilapidated shall be removed or replaced by the property owner within seven (7) days of written notice from the Building Inspector.

(8) Content neutrality. The regulations in this subsection shall be applied without regard to the content or viewpoint of the message displayed on the sign.

(9) Enforcement.

(a) Signs placed within the public right-of-way in violation of paragraph (5) of this subsection may be removed by the Town of Wilton without prior notice.

(b) If any temporary noncommercial sign is erected prior to the time period permitted under paragraph (4)(a) of this subsection, or is not removed within five (5) days following the conclusion of the event, the Town of Wilton may remove the sign without notice.

D. Public notices. Official notices posted by public officers or employees in the performance of their duties.

E. Real estate signs. One real estate sign on any lot or parcel, provided that such sign is located entirely within the property to which the sign applies, is not directly illuminated, does not exceed six square feet per side in area and is removed within seven days after the sale, rental or lease has been accomplished.

~~**F. Temporary signs.** Temporary signs four square feet per side in area pertaining to drives or events of civic, philanthropic, educational or religious organizations, provided that said signs are~~

~~posted only during said drive or no more than 30 days before said event and are removed no more than five days after the event.~~

[Note: Entire subsection deleted and folded into new subsection C. Former subsection F was a speaker-based classification. The enforcer had to determine whether the organization was “civic, philanthropic, educational or religious” to decide if the sign was permitted. The new subsection C covers the same signs (event-associated noncommercial messages) without requiring the enforcer to classify the speaker. The four (4) square foot per side sign area from this provision has been applied as the size standard in new subsection C(1).]

G. Banner/grand opening. These banners are limited to 100 square feet, one per business and shall not be displayed more than 30 days.

~~H. A frame or sandwich board signs shall not be permitted in any district.~~

I. Portable signs shall not be permitted in any district.

J. Hot air balloons or helium balloons shall not be permitted in any district.

§ 129-185.1. Noncommercial message substitution.

Any sign authorized under this Article that is allowed to display a commercial message may, at the option of the sign owner, display a noncommercial message instead, subject to the same regulations applicable to the sign. The ability to display a noncommercial message in place of a commercial message shall not be used to increase the total number, size, or duration of signs otherwise permitted.

[Note: New section. Prevents commercial speech from receiving more favorable treatment than noncommercial speech. In plain terms: anywhere a commercial sign is allowed, the sign owner can swap in a noncommercial message of the same size instead, but can't use this to put up extra signs.]

§ 129-186. Unlawful signs. — Amendment to D(1)

D. Unclassified signs.

(1) Signs which bear or contain statements, words or pictures of an obscene; ~~pornographic or immoral~~ or pornographic character or which contain ~~advertising matter, which is untruthful~~ untruthful commercial advertising matter.

[Note: Two changes. First, “immoral” is struck. “Obscene” and “pornographic” track established constitutional doctrine (Miller v. California), but “immoral” is vague and content-based. Courts have struck down similar language as unconstitutionally overbroad because it requires a government official to make a subjective moral judgment about a sign’s content. Second, “untruthful” is moved to modify “commercial advertising matter” specifically. Untruthful commercial speech is regulable under Central Hudson Gas & Electric Corp. v. Public Service Commission, but the original phrasing could be read to reach noncommercial speech, which receives full First Amendment protection regardless of its truthfulness.]

§ 129-187. Permit requirements. — Conforming Amendment

A(4). Temporary commercial signs not covered in § 129-185~~F~~ will be limited to six months and not exceed ~~3216~~ 3216 square feet.

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[Note: Three changes. First, deleted the “F” so this catch-all references all of § 129-185 rather than only former subsection F (which has been deleted). Second, inserted “commercial” to clarify that this catch-all applies only to temporary commercial signs. Third, reduced the size limit from 32 to 16 square feet to match the noncommercial sign limit for commercial and industrial districts in new § 129-185(C)(1). Without this reduction, temporary commercial signs would receive more favorable size treatment than temporary noncommercial signs in the same district, creating a constitutional disparity. The 16 sq ft limit is consistent with Clifton Park's commercial-district standard for temporary signs, accommodates all standard temporary commercial sign formats (a 4'×4' panel is readable from Route 9 at typical setback distances), and reflects the trend in recently updated municipal sign codes toward tighter temporary sign limits. The prior 32 sq ft standard dates to the original code adoption and was sized for plywood-sheet construction that is no longer industry practice.]