

MUNICIPAL REGULATION OF SIGNS

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Authority to Regulate Signs

- First Amendment (and sometimes fifth and fourteenth)
- State Constitutions
- State Zoning Enabling Legislation
- Local Zoning and Sign Laws

- ALL SIGNS ARE CONSIDERED SPEECH AND CARRY SOME SORT OF PROTECTION UNDER THE FIRST AMENDMENT
- Sign regulations are not presumed constitutional. A review of a sign law is subject to heightened scrutiny.

Content vs. Viewpoint Neutrality

- Content neutrality concerns subject matter
- Viewpoint neutrality concerns point of view

- A ban on all political signs would be viewpoint neutral, but not content neutral.
- A ban on all green party signs would be neither content neutral nor viewpoint neutral
- A ban on all temporary signs is both content and viewpoint neutral

Why does it matter?

- A regulation that is “content based” will be subject to strict scrutiny if challenged: there must be a compelling government interest, it must be the least restrictive means of achieving that interest, and means must be narrowly tailored.
- A regulation that is “content-neutral” is subject to intermediate scrutiny: there must be a significant/important governmental interest unrelated to suppression of speech, substantially related means, narrow tailoring and ample alternative channels for communication.
- Regulation of commercial speech is subject to intermediate scrutiny.

2015

- Reed vs. Town of Gilbert – Requires “content neutrality”. A local government cannot vary sign regulations according to message type (political, ideological, directional, etc.)



What can a municipality regulate?

- Rules regarding the size of signs. The Town of Pleasant Valley regulates the size of permanent signs based on the location and make of the sign. The permitted size of a wall sign is based on the size of the establishment's principal façade, while a monument sign can be no larger than 16 square feet on each side and no taller than six feet.

What can a municipality regulate?

- Rules regarding the lighting of signs. The Village of Fishkill has adopted different sign regulations for different zoning districts within the Village. Internally illuminated signs are permitted along Route 9 and I-84 but prohibited within the historic main street area.

What can a municipality regulate?

- Rules regarding signs with fixed messages and electronic signs with messages that change. The Town of Poughkeepsie prohibits electronic message display signs (EMDs) in all residential districts, hamlet districts and in certain commercial districts. Where such signs are permitted, the Town regulates the distance between EMDs, the location of EMDs, and requires a message to be displayed for no less than 12 hours without change.

What can a municipality regulate?

- Rules regarding the placement of signs on public and private property. The Town of Red Hook prohibits signs in the public right of way.

What can a municipality regulate?

- Rules regarding on-premises and off-premises signs. The Town of LaGrange prohibits billboards in all district. A Billboard is defined as “an off-premises sign that is lease or rented for profit.”

What can a municipality regulate?

- Rules restricting the total number of signs permitted per mile of roadway or frontage. The Town of Hyde Park regulates signs on establishments within a shopping center. Each establishment may have a sign no more than one square foot for each lineal foot that the establishment occupies, up to 100 square feet.

What can a municipality regulate?

- Regulations regarding building materials and moving parts. The Town of Dover Zoning Law prohibits signs from containing or consisting “of any moving, rotating, or revolving device.”

What can a municipality regulate?

- Rules regarding permanent versus temporary signage.

What can a municipality regulate?

- Rules imposing time restrictions on signs advertising a one-time event or allowing signs leading up to an election or other event, so long as signs of any topic whatsoever are permitted.

2015 to Present

Many municipalities have not taken any action to update their sign regulations.

Content based example

- Permitted signs. The following types of signs are permitted, provided that they comply with all other provisions of this chapter:
- **(1)** Awning and canopy lettering, as regulated in § **120-19E**.
- **(2)** Temporary signs and banners related to political, civic, philanthropic, educational or religious activities. Such signs shall be limited to 20 square feet in area and to display for a period not exceeding 45 days.
- **(3)** Directional signs larger than two square feet, as otherwise defined under exempt signs in § **120-19G**.
- **(4)** Externally illuminated signs, as regulated in § **120-19D(1)**.



Village of Fishkill

- The Village of Fishkill proactively amended sign regulations in 2018 to comply with the *Reed* Decision
- Changed the definition of sign to exclude a “government sign”

“GOVERNMENT SIGN”

A sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.



REGISTERED

No. _____

STATE OF NEW YORK

MOTOR VEHICLE

REPAIR SHOP

POSTED

NO TRESPASSING

**HUNTING, FISHING, TRAPPING OR
MOTORIZED VEHICLES
ARE STRICTLY FORBIDDEN
VIOLATORS WILL BE PROSECUTED**

108VP

NAME & ADDRESS - OWNER OR LEESEE



- Government Signs do not count towards total signage.

TEMPORARY SIGNS

- “Election Signs”

Up to 15 square feet of temporary yard and lawn signs displayed only during election campaigns, drives or special events shall be allowed per business or residence. Signs shall be allowed in any zoning district and must be removed within five calendar days after the completion of the occasion for which the signs were installed. Furthermore, signs may not be installed earlier than 30 days prior to the first date of the special event, drive or election being publicized. No permit shall be required for such sign

Signs in Residence Districts

- The previous version of the sign regulations did not permit signage in residential districts except for:
 - 1) An identification sign
 - 2) A sign identifying a home occupation
 - 3) Signs for other permitted uses.
- The Code was amended to permit “One sign not exceeding two square feet in area” on every residential lot.



Rhinebeck Non-Instructs
NEED A FAIR CONTRACT
We are The
CORE!! 

Saltsman
CHRISTMAS TREE
Farm


Town of Hyde Park

- Old Law:
- Property signs not exceeding two square feet in area and bearing only the property name, numbers, postal route box numbers, 911 emergency address numbers, image or logo, or names of occupants of the premises.



Town of Hyde Park

- New Law:
- Property identification signs not exceeding two square feet in area **such as** signs bearing only the property name, numbers, postal route box numbers, 911 emergency address numbers, image or logo or names of the occupants of the premises.

Town of Hyde Park

Other Temporary Signs. Other temporary signs may be erected on property within any zoning district subject to the following requirements:

- (a) Such signage shall not consist of a sign prohibited by § 108-24.4;
- (b) Such signs shall not exceed six (6) square feet in total area;
- (c) Such signs shall not be displayed for more than 60 days total in any one calendar year on any one property;
- (d) Portable signs are permitted by the placement of the same shall not be for longer than 60 days total per year;
- (e) No lighting of such temporary signs is permitted;
- (f) No more than one temporary sign may be displayed on a property at any one time.

CONCLUSION

- Communities should review their sign regulations to treat all non-commercial speech the same way
- Avoid regulations based on message content or category (directional vs non-profit vs election) and instead focus on characteristics of the sign (temporary vs permanent, size, materials and duration).

