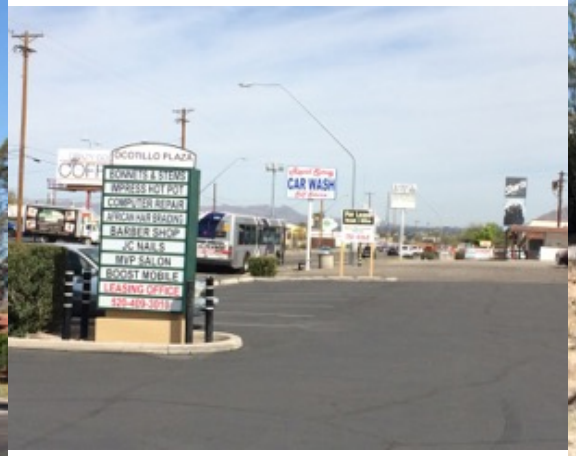


Sign Code Project

October 17, 2016

Mayor and Council Direction August 9, 2016

- Initiate a Sign Code revision process
- Comply with the 2015 U.S. Supreme Court decision on Reed v. Town of Gilbert,
- Simplify the Sign Code by integrating it into the Unified Development Code, and
- Make practical changes that modernize the Code, improve the quality of design and flexibility of the overall code, and ground it in technical standards.
- Have the Citizens Sign Code Committee and the Planning Commission hold joint study sessions and public hearings on the proposed changes to the Sign Code.
- Have staff return to the Mayor and Council with a recommendation no later than January 2017.
- Note several councilmembers stated that Mayor and Council may consider a longer period of time at a study session if needed

Sign Code Project Key Areas

- *Reed vs. Town of Gilbert* – content neutrality and First Amendment compliance

- Simplification - incorporate into the Unified Development Code (UDC)

- Design and Process Improvements -

National Legal Analyst's Reed Reminders

- “Every sign carries some form of First Amendment protection
- Government regulation of sign loses the normal presumption of constitutionality and is subject to heightened scrutiny
- Sign litigation is common, expensive, and risky
- Most sign ordinances contain at least a few provisions of questionable constitutionality, particularly following *Reed.”*

A Strategy to Comply with *Reed*

- List technical standards in adopting ordinance
- Revise Purpose Statement - reflect traffic safety, visual environment
- Ensure there is a severability and substitution clause
- Review sign types for content neutrality and identify signs by time, place or manner
- Create sign area allotment for portable signs and let owner allocate the messages
- Consider a future comprehensive sign policy in *Plan Tucson*

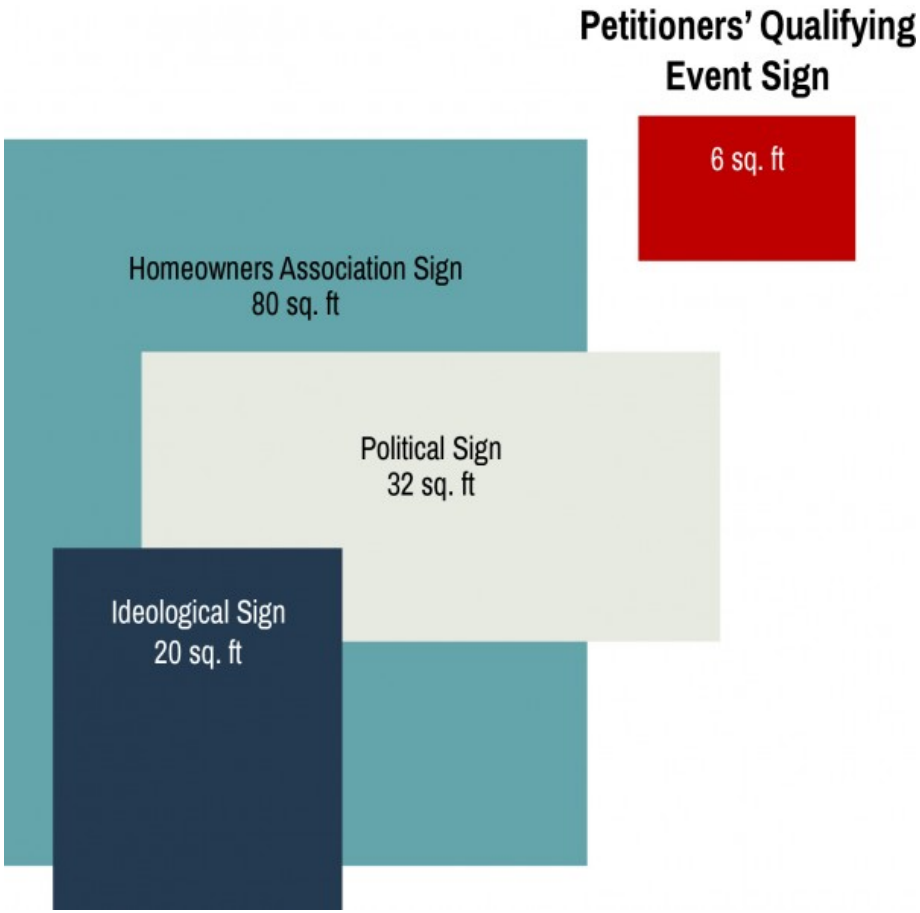
Simplification Strategy

- Place Sign Code in the UDC - revise to remove redundancies and add clarifications
- Premise – refers to a unified development that may have several properties or development plans within it
- Remove existing/natural topography deduction from sign height
- Remove redundant sign districts – rely on current UDC zones
- Review interpretations - alteration for non-conforming signs, roof signs, maximum sign area
- Develop a design option to include a master sign program and design review process
- Allow a Planned Area Development (PAD) to have a master sign program
- Improve graphics and special sign district maps

Best Design Practices

- Have both a technical and the visual environment viewpoint
- Consider a design option with more specific design review process and standards
- Have a legibility standard
- Have a best practice option – based on verification by the Design Professional

Reed v. Town of Gilbert Analysis
‘on its face’ vs. categories



Content-neutral

The term refers to sign messaging that does not limit a type of speech but allows the sign to be regulated as to the circumstances of **time, place, and manner** under which the speech may take place.

Examples:

Real Estate Sign – Message-oriented

Awning Sign – Content neutral

What can we regulate under *Reed*?

- SCOTUS Majority – Can regulate - Size, materials, lighting, moving parts, portability, public property.

- Concurring (Alito) – Can regulate - Location, changeable copy, commercial/residential, number per frontage, time restriction on advertising one-time event, governmental sign.

Examples of Tucson Sign Code Sign Types

Problems

- Real estate (7)
- Directional
- Political
- Time and temperature
- Home occupation
- Grand opening
- Building memorial marker

Probably Okay

A-frame
Awning
Canopy
Freestanding
Wall
Freeway
Banner
Portable
Access Point
Yard or Dwelling Unit

Sign Types in a *Reed* Compliant Sign Code

- **Permanent signs** – traditional permanent signs in a content-neutral context
- **Portable signs** – various temporary or non-permanent signs*
- **Interior signs** - various on-site signs not readable or viewable from the right of way
- **Government signs** – unaffected by *Reed*

* ***Political Signs*** *- Impact of ARS Sec. 16-1019 have a special AZ compliance issue*

Summary of Preliminary Draft Sections

Comparison Proposed UDC 7A and Chapter Three

- 7A. 1 - Purpose and Applicability
- 7A. 2 - Interpretation and Substitution Clause
- 7A. 3 - Definitions*
- 7A. 4 - Permits, Inspections, Fees,
- 7A. 5 - Violations Enforcement, Penalties*
- 7A. 6 - Measurement, Location, and General Requirements
- 7A. 7 - Sign Design Option
- 7A. 8 - Prohibited and Exempt Signs
- 7A. 9 - Non-conforming Signs
- 7A.10 - Sign Types and General Standards
- 7A.11 - Special Districts
- 7A.12 - Appeals and Variances
- 7A.13 - Citizen Sign Code Committee*

- Art I Introductory Provisions
- Art II Definitions
- Art III Permits Fees, Inspections
- Art IV General Requirements
- Art V Sign Types and General Regs
- Art VI Signs by District
- Art VII Sign Maintenance
- Art VIII Nonconforming Signs and Change of Use
- Art IX Violations, Enforcement, Penalties
- Art X Sign Code Advisory and Appeals Board
- Art XI Citizen Sign Code Committee

Outline of Draft Sign Standards

- 7A. 1 - Purpose and Applicability
- 7A. 2 - Interpretation and Substitution Clause
- 7A. 3 - Definitions*
- 7A. 4 - Permits, Inspections, Fees,
- 7A. 5 - Violations Enforcement, Penalties*
- 7A. 6 - Measurement, Location, and General Requirements
- 7A. 7 - Sign Design Option
- 7A. 8 - Prohibited and Exempt Signs
- 7A. 9 - Non-conforming Signs
- 7A.10 - Sign Types and General Standards
- 7A.11 - Special Districts
- 7A.12 - Appeals and Variances
- 7A.13 - Citizen Sign Code Committee*

*Blue sections should be moved to appropriate UDC articles

Purpose Statement Topics in Current Sign Code (Sec.3-2)

- **Fairness** - provide fair and comprehensive regulations;
- **Aesthetics** - foster a good visual environment for Tucson, enhancing the fragile desert;
- **Aesthetics** - preserve the beauty and unique character of the City;
- **Economic Development** – create an aesthetic and enjoyable appearance for our visitors and our residents;
- **Economic Development** - recognizing the legitimate advertising and signage needs;
- **Economic Development** - promote and aid in the tourist industry;
- **Blight Prevention** - safeguard and enhance property values;
- **Building Safety** - protect the general public from damage and injury that may be caused by the faulty and uncontrolled construction;
- **Traffic Safety -** promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic.

7A.1 - Purpose and Applicability

- **Ensure freedom of speech and fair enforcement - FAIRNESS**
- **Improve and protect scenic views and the visual environment - AESTHETICS**
- **Balance public safety, rights, and reduce clutter - SAFETY**
- **Support tourism through attractive and ease of way finding - ECON DEV**
- **Protect property value from clutter's impact - BLIGHT PREVENTION**
- **Promote public safety by requiring good construction and maintenance - SAFETY**
- **Enhance flow of traffic through legible and well-sited signs - SAFETY**

7A.1 Applicability

- Applies to all signs in the City.
- The City of Tucson will follow its own sign standards.
  - *Unintended consequences?*
  - *Reed does not apply to government signs*
  - *City's Administrative Directives already require City to comply but allow for alternatives approved by City Manager*

7A.2 Interpretation, Severability, and Non-commercial Speech Substitution

- Updated references to zoning administrator; change Sign Code to Sign Standards and refer to UDC.

- Non-commercial speech substitution is existing language.

- Interpretation of Zone boundaries mainly refers to special sign districts. All other zone references are to existing UDC zones.

7A.3 Definitions

- Move definitions into UDC's Article 11
- Mark Sign Standards definitions in Article 11 with a (7A) to clarify it only applies to Art. 7A
- Delete redundant terms with UDC– *arterial street, collector street, local street, lot, Major Streets and Routes Plan, person, public use, school, subdivision*
- Delete problem ***Reed*** terms – *real estate sign types, time and temperature, medical service directional sign, menu board?*
- Add or revised terms wit ***Reed*** issues– sign, *access point sign, dwelling unit sign, electronic sign copy, interior sign, parking lot sign, permanent sign, portable sign, window sign*

Added or Modified Sign Types

- MODIFIED -
- Banner
- Directory sign
- Electronic sign copy
- Mural
- Parking lot sign
- Portable sign
- Sign

- ADDED -
- Access point sign
- Dwelling unit sign
- Interior sign
- Permanent sign

Deleted or Modified Definitions

- MODIFIED -
- Attached sign
- Detached sign
- Wall/window sign
- Menu board?

DELETED -

- Medical services directional sign
- All real estate signs
- Temporary on site sign
- Time and temperature sign

DELETED -

- Arterial Street
- Collector Street
- Local Street
- Lot
- Major Streets And Routes Plan
- Person
- Public Use
- School
- Subdivision

Outline of Draft Sign Standards

- 7A. 1 - Purpose and Applicability
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- 7A.11 - Special Districts
- 7A.12 - Appeals and Variances
- 7A.13 - Citizen Sign Code Committee*

*Blue sections should be moved to appropriate UDC articles

BACKGROUND MATERIALS

7A.4 Permits Inspections and Fees

- No major changes proposed
- Make UDC reference revisions
- Note - Maintenance becomes more important to resolve sign violations and potential clutter issues.

7A.5 Violations, Enforcement and Penalties

- Move this section to UDC Article 10 (Enforcement).
- No major changes proposed.

7A.6 Measurements, Location, and General Requirements

- Reorganizes measurement etc. references into this section for completeness
- *Sign area* includes a longstanding interpretation for ‘signs’ like crosses
- 250 feet from freeway sign area ratio moved here
- *Change of copy* revised for problem ***Reed*** signs
- *Premise* is clarified to mean the unified site
- *Item of information* defined here for design option use
- *Electronic message centers* called out as a type of electronic sign copy – but standard remains the same as current Sign Code

7A.6 Measurements, Location, and General Requirements cont'd

- *Grade* and topmost sign feature combined into a sign height standard
- Grade is revised so that higher existing or natural topography sites are not penalized with a deduction from the standard sign height
- Clearance, street frontage, building frontage are clarified

7A.7 Sign Design Option

- Master Sign Program-Permanent
  - Includes all exterior permanent signs
  - Decision is by Sign Code Committee –appeal to M/C –(consider a minor/major review?)
  - Design Standards
  - Findings
- Master Sign Program- Portable
- Individual Sign Option

7A.7 Sign Design Option

- Master Sign Program-Permanent
  - Includes all exterior permanent signs
  - Decision by Director with recommendation by Sign Code Committee – appeal to M/C
  - Design Standards
  - Best Practice Option –contains technical standards as guidelines – helps with a ***Reed*** defense
  - Findings

Master Sign Plan Design Standards

- Sign’s component parts
- Integration with architecture
- Dark sky compatible illumination
- Siting of sign
- Building height profile of surroundings
- Legibility
- Uniformity in sign copy presentation
- Scenic view impact
- Proportionality
- Way finding - Identification rationale

Master Sign Program - Portable

This section is an alternative to the current Sign Code's flexible standards for real estate signs.

- Purpose – Responds to special portable sign needs of a business, organization, or user with special sign needs
- Applicability – applies to all portable signs
- Design Standards – number, spacing, materials, height, legibility
- Additional Findings – clutter management legibility, uniformity in design

Individual Sign Design Option

- Replaces Integrated Architecture section
- Purpose
- Applicability – freestanding, wall and integrated
- Design Standards
- Decision making
- Findings

7A.8 Prohibited and Exempt Signs

- Prohibited
  - Electronic message centers deleted from list and relocated in Measurements section and renamed as ‘electronic sign copy’ with limited scrolling feature
  - Flags commercial
  - Pennants
  - Roof sign moved to Permitted Sign types **with conditions** per recent interpretation

- Exempt
  - Flags non-commercial
  - Murals non-commercial
  - Specially licensed signs – may need further discussion per ***Reed***

7A.9 Non-conforming Use

- Left mostly with the same standards
- Mentions recent interpretation allowing electronic features to be an alteration
- Sunsetted provisions are still listed in the current Sign Code. Remove or keep?
- Change of use section kept in tact but should be discussed
- Individual Sign Option could allow a replacement for a non-conforming sign

7A.10 Sign Types and General Standards

- Generally Permitted Signs
  - Interior Signs
- Permanent Signs by Zones (table)
- Maximum Sign Area by Zones with standards (table)
  - Residential Zones – non-residential uses
- Permanent Signs – Additional Sign Type Standards

7A.10 Sign Types cont'd

- *Access Point Sign* replaces directional sign
- No change to *Billboards, Canopy, Wall* sign types
- *Freestanding* removes references to types of premises and relies on premise
- *Parking Lot Sign* replaces parking sign
- Add *Projecting Sign* standards
- Add *Roof Sign* per interpretation on 10' high parapet

7A.10 Temporary/Portable Sign General Standards

- Portable Sign Maximum Area Standards
- Sign area allotment based on street classification
- General standards address ground and wall mounted sign types
- Smaller street frontages have different sign sizes, and spacing standards
- Materials must be consistent on ground-mounted signs

7A.10 Temporary/Portable Sign General Standards cont'd

- A-frame signs are left mostly the same
- Temporary signs reflect previous grand opening banners and fixed balloons
- Political signs section states that City will comply with ARS 16-1019
- Special event signs to be removed and covered in Signs in and over the Right of Way section
- Historic Landmark signs may need some updates but remain the same for now.

7A.11 Special Districts

- Scenic, pedestrian and historic districts remain the same with UDC and *Reed* sign adjustments
- There is a concern about the sign height clearance in the pedestrian district needing to be adjusted higher
- Park, Medical/Business/Industrial Park are removed because of lack of use use.
- PADs may use zone they are based on for permitted signs or apply for a master sign plan for signage.

7A.12 Appeals and Variances

- Consistent with recent ordinance to have Board of Adjustment hear variances and appeals and disband the Sign Code Advisory Board
- Board of Adjustment decisions may be appeal to Mayor and Council or Superior Court.

7A.13 Citizen Sign Code Committee

- Hear Sign Design Option cases make recommendation to PDSD Director
- These include master sign programs both permanent and portable and individual sign options
- Decisions can be appealed to M/C
- Make recommendations to Planning Commission on sign standards amendments
- Move committee's establishment/responsibilities/ and other procedures to UDC Article 2 (Review Authorities and Powers)

General Background Information

Central Hudson Test for Restriction on Commercial Speech

- **Regulations affecting commercial speech <u>do not</u> violate the First Amendment if:**

  1. The regulated speech proposes an economic transaction involving an illegal activity.

  2. The regulated speech is misleading.

  3. The regulation substantially advances an important government interest, and the regulation is narrowly tailored to serve the government's interest.

- The government bears the burden of identifying a substantial interest and justifying the challenged restriction

- It must demonstrate narrow tailoring of the challenged regulation to the asserted interest — a fit that is not necessarily perfect but reasonable; that represents not necessarily the single best disposition but one whose scope is in proportion to the interest served.

Sign Types in a *Reed* Compliant Sign Code

- **Permanent signs** – traditional permanent signs in a content-neutral context
- **Portable signs** – various temporary or non-permanent signs
- **Interior signs** - on-site not viewable from right of way
- **Government signs** – unaffected by *Reed*

Political Signs *- Impact of ARS Sec. 16-1019 have a special AZ compliance issue*

Information on Portable Signs

ARS Sec. 16-1019 and Political Signs

Election Cycle - Applies 60 days before primary and ends 15 days after the general election allowing political signs in the right of way subject to the following:

- It is not placed in a location that is hazardous to public safety;
- It does not obstruct clear vision;
- It does not interfere with the requirements of the ADA
- It does not exceed sixteen square feet if in a residential zoning district or thirty-two square feet if in an another district, and
- It does not include the name and telephone number or website address of the candidate or campaign committee contact person.

*The impact is – **other non-commercial portable signs** may be permitted the same as a political sign. Commercial portable signs are **probably** not permitted in the right of way under this statute.*

Political Signs

Portable Signs

Definition

- Can be moved
- Not designed to be permanent
- Attached or ground mounted
- Materials are light weight – cardboard, light fabric, plastic, plywood, etc.

Example Sign Types

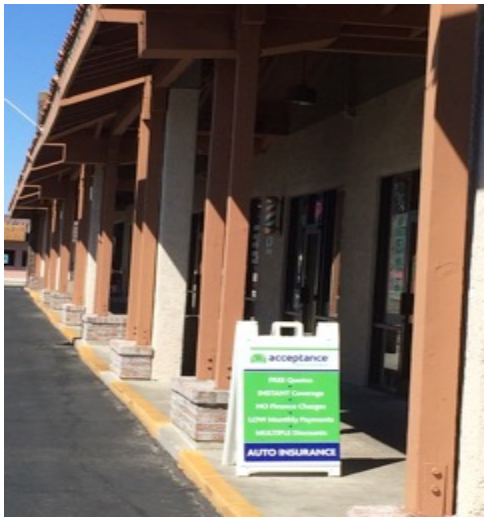
- A-frame
- Banners – freestanding/wall
- Freestanding
- Wall
- Window
- Attached- general
- Detached - general

Current Sign Code's Real Estate Signs

Message-oriented signs that are problematic under *Reed*

- Announcement – 32 sq ft
- Construction – 32 sq ft
- Development – 3@72 sq ft or 6@ 50 sq ft
- Directional – 4 sq ft
- For Sale – 20 sq ft
- Rental – 3@ 72 sq ft or 6 @ 50 sq ft
- Identification – entrance – 20 sq ft
- Subdivision – 200 sq ft
- **Portable Sign Master Plan Option?**

Portable Sign Examples



Portable Sign Examples

Portable Signs and Spacing

Portable Signs and Spacing

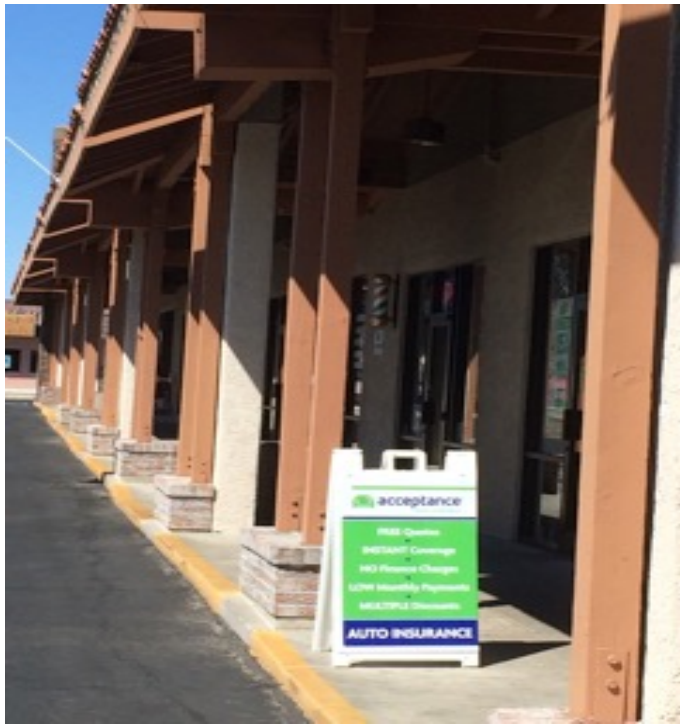
Portable sign master plan?

Portable Signs - Considering Clutter Management and First Amendment Parameters

- Street frontage – 150 feet spacing current Sign Code
- ARS political signs - 32 sq. ft. commercial/ 16 sq. ft. residential
- *Reed* – materials, location, size, height, spacing
- *Arlington County* - four temporary signs per property supported by case law

A- frame Signs

Should A-frame sign be included in sign area allotment and number of signs?



Background on Design Standards

Sign Clutter Examples

Illegible, too many crowded sign types, election cycle proliferation of signs, disorganized colors and panels, oversized structures

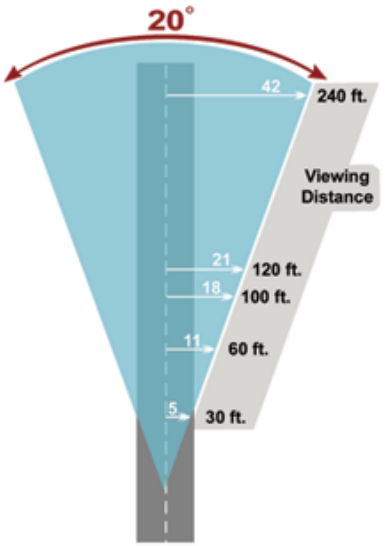
Tall signs impact on scenic views

Signs with orientation and legibility

Freestanding - Legibility

Considering Technical Standards - Detecting a Sign and Vehicle Reaction Time

- *Scan and Detect*
- *Re-orient to the road*
- *Begin maneuvering vehicle to the location*

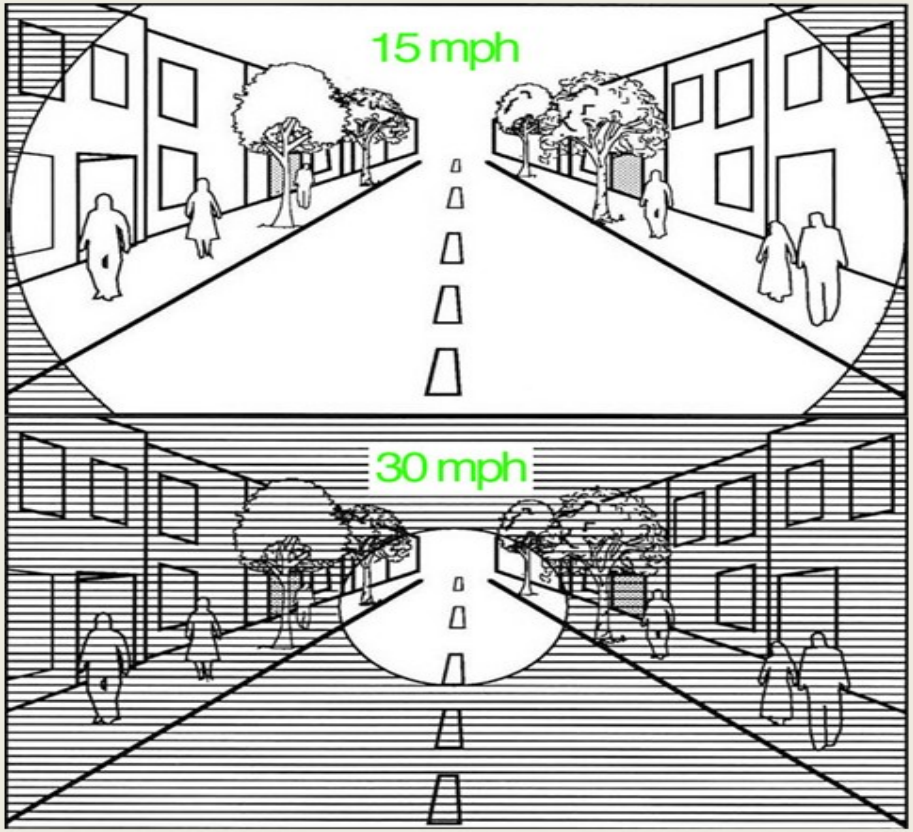


- At 40 miles per hour vehicle is moving about 58 feet per second.
- Six seconds from scan to maneuver is a reasonable time.

Cone of Vision

driver's cone of vision

varies with speed



Potential Design Option Standards

- Sign’s component parts
- Integration with architecture
- Dark sky compatible illumination
- Siting of sign
- Building height profile of surroundings
- Legibility
- Scenic view impact
- Proportionality
- Wayfinding - Identification rationale
- Uniformity in sign copy presentation

Inside attached Window Signs

Outside Applied Window Signs

Inside non-attached Window Signs

Minor grade change on Speedway

Creating Design Standards

- Note: These are not perfect examples. The sign below is too tall and too large. But both have some useful design features

Comparison - Uniform and Non-uniform Design

Preliminary Portable Sign Area Allotment

7A. TEMPORARY/PORTABLE SIGNS GENERAL STANDARDS

Table B - Portable Maximum Sign Area Allotment

The following zones may have portable signs. Additional standards may apply to individual sign types.

Zone Categories	Local Street	Collector Street	Arterial Street
Rural/Residential /Multi-family, Non-residential	16 sq. ft.	32 sq. ft.	64 sq. ft.
General Business and Industrial	32 sq. ft.	64 sq. ft.	128 sq. ft.

Miscellaneous Portable Signs

Freeway Sign

Signs and Churches

Signs at a Church

Churches and signs

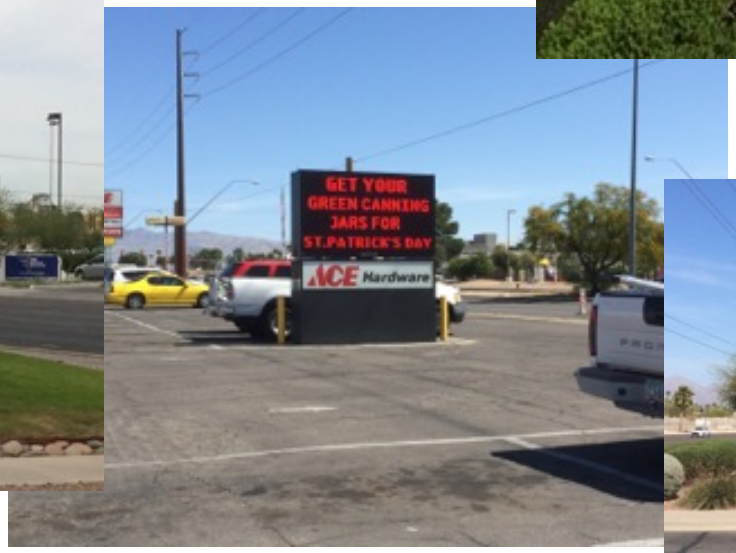
Church and School Electronic Sign Copy – Freestanding Signs

Various Sign Types

Various Wall Signs

Various Wall Signs

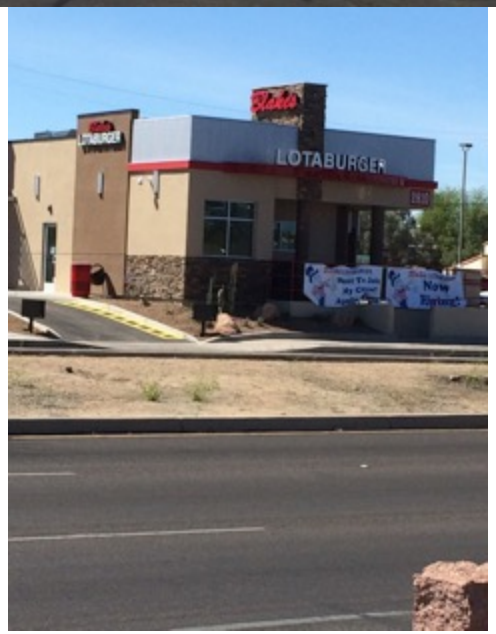
Permitted Monument Signs



Interior directional signs

Real Estate Signs

Roof-like Signs



Signs with Potential Historic Significance

Historic Signs

Non-conforming Signs that may have historic significance

Sign Code Project Key Areas

- *Reed vs. Town of Gilbert* – content neutrality and First Amendment compliance

- Simplification - incorporate into the Unified Development Code (UDC)

- Design and Process Improvements -

Wall Signs