

**AGENDA  
LEBANON CITY COUNCIL  
FEBRUARY 15, 2017**

**9. NEW BUSINESS:**

**9.C – CREATION OF TASK FORCE:**

**REVIEW SECTION 608, SIGNS, OF THE LEBANON ZONING ORDINANCE**

**BACKGROUND**

In 2015, the United States Supreme Court issued a decision in the matter of Reed v. Town of Gilbert, AZ, a case involving a church's First Amendment free speech challenge to the Town's sign regulations. The Reed decision has rendered large sections of many local sign regulations unconstitutional and spawned lawsuits across the nation.

In response to Reed, municipalities everywhere are working to amend and revise their sign regulations. As part of this process, the Planning Office is recommending the City Council consider forming a task force to review Section 608 in its entirety, and bring proposed amendments to the City Council that are legally sound in accordance with *Reed*, and that carefully balance the community's aesthetic considerations with the needs of our businesses.

**ACTION**

*Should the Council wish to establish a Task Force to Review Section 608, Signs, of the Lebanon Zoning Ordinance, the following motion is offered for consideration:*

***MOVED, that the Lebanon City Council hereby establishes the "Section 608 Task Force," a task force created to review and draft proposed amendments to Section 608, Signs, of the Lebanon Zoning Ordinance. The Task Force is to be comprised of the following:***

***City Staff: Planning & Zoning Director; Zoning Administrator***

***One representative from each of the following:***

***City Council***

***Planning Board***

***Economic Vitality Exchange Committee***

***Heritage Commission***

***Pedestrian & Bicyclists Advisory Committee***

***One Business Owner from each of the following commercial sectors:***

***Downtown Lebanon***

***Downtown West Lebanon***

***Mechanic Street***

***Miracle Mile***

***Route 120***

***Route 12A***

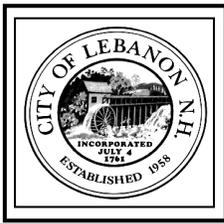
***One Representative from the Lebanon Chamber of Commerce***

***Three residents who are not otherwise members of any of the City's boards and committees and who are not business owners***

***The sunset date for this task force shall be September 1, 2017.***

Included in this Section:

1. February 6, 2017 Memo by Planning Department staff re: Staff Request to Authorize Formation of a Sign Ordinance Task Force
2. Task Force Request – Sign Regulations Review



## CITY OF LEBANON ~ PLANNING & ZONING

### MEMORANDUM

**TO:** Honorable Mayor and City Councilors

**CC:** Paula Maville, Interim City Manager

**FROM:** David Brooks, Director of Planning & Zoning  
Tim Corwin, Zoning Administrator

**RE:** Staff Request to Authorize Formation of a Sign Ordinance Task Force

**DATE:** February 6, 2017

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### INTRODUCTION<sup>1</sup>

In 2015, the United States Supreme Court issued a decision in the matter of *Reed v. Town of Gilbert, AZ*, a case involving a church's First Amendment free speech challenge to the Town's sign regulations. The *Reed* decision immediately rendered large sections of many local sign regulations unconstitutional and spawned lawsuits across the nation.

In response to *Reed*, municipalities everywhere are working to amend and revise their sign regulations. As outlined below, Planning Department staff recommends that the City of Lebanon take concrete steps to do the same.

### BACKGROUND

The Supreme Court's decision in *Reed* establishes a clear, "bright line" test for determining when a municipal sign regulation (and by extension any government restriction on speech) results in an unconstitutional violation of the free speech protections guaranteed by the First Amendment. The nuances of *Reed* are complex and much uncertainty remains with respect to its application and reach. But for short-hand reference, the test established under *Reed* can be summarized as follows:

If it is necessary to read the sign in order to know whether a sign regulation applies, that sign regulation is considered content-based. Any such content-based restriction of speech is subject to strict scrutiny review and, therefore, may be unconstitutional.

The City of Lebanon's sign regulations are found in §608 of the Zoning Ordinance<sup>2</sup> and contain a large number of constitutionally-suspect provisions as a result of the *Reed* decision. For example, the categories of signs that §608 exempts from having to obtain a sign permit are

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<sup>1</sup> The Background and Information sections of this memo are identical to the same sections in the staff memo prepared for the proposed interim amendments to §608 of the Zoning Ordinance (to be addressed by the Council as a separate agenda item).

<sup>2</sup> Additional regulations for non-public signs within the City's right-of-way are found in Article IV, Chapter 152 of the City Code.

almost entirely based on the *content* of the sign, therefore potentially making these regulations unconstitutional abridgements of First Amendment-protected speech.

Continued administration of the §608 sign regulations may expose the City to significant liability.

## **RECOMMENDATIONS**

Staff recommends a two-step approach to address *Reed*:

**1. Adopt Interim Amendments to §608 of the Zoning Ordinance.**

*(This recommendation will be addressed as a separate agenda item.)*

**2. Authorize Formation of Sign Ordinance Task Force.**

Although the recommended interim amendments correct obvious legal deficiencies, their effect is to remove substantial provisions of §608. Therefore, staff recommends the City take this opportunity to appoint a “Sign Ordinance Task Force” of approximately 12-15 persons to undertake a comprehensive rewrite of §608 of the Zoning Ordinance.

The Task Force’s goals would be to ensure that the City’s sign regulations – which last received a substantial updating 25 years ago – are dynamic, current, and in furtherance of the *Master Plan*; that they carefully balance the community’s aesthetic considerations with the real needs of our businesses; and that they are legally sound under *Reed*.

In order to ensure the efforts of the Task Force are truly comprehensive, staff recommends that Council also authorize the Task Force to (a) review and draft propose amendments, as needed, to §152-31 *et seq.* (“Non-Public Signs in City Highway Right-of-Way”) of the City Code, and (b) review the City’s policies for permitting signs on City property and draft proposed revisions, if appropriate.

Members of the Task Force should include representatives from a broad cross-section of our community. At a minimum, the Task Force is recommended to be comprised of:

- Members of the City’s Boards & Committees including City Council, the Planning Board, the Economic Vitality Exchange Committee, the Heritage Commission, and the Pedestrian & Bike Advisory Committee.
- Representatives from the Lebanon Chamber of Commerce.
- Members of the business community including, at a minimum, business owners from each of the City’s commercial nodes including downtown Lebanon, downtown West Lebanon, Miracle Mile, Mechanic Street, Route 120, and Route 12A.
- Interested residents who are not otherwise members of any of the City’s boards and committees.

Staff anticipates that once the Task Force members are appointed, it will take approximately four months to draft new sign regulations and present them for initial consideration to Council. It will take approximately two additional months to enact the regulations, pursuant to the amendment process set forth in §1000 of the Zoning Ordinance.

## **ATTACHMENTS**

- Task Force Request Form

FINAL: Task Force Template

The overall purpose of any task force is to insure that the City of Lebanon has the right groups working on the right issues at the right time and that those activities complement the City's work plan, Master Plan and budget strategies.

Name of task force: Sign Ordinance Task Force

Date created: \_\_\_\_\_ Date of Council approval: \_\_\_\_\_

Duration of task force activities:  6 months \_\_\_\_\_ 1 year \_\_\_\_\_ Other

Task force's defined objective/goal/outcome:

[Note: A task force should have at least 1 defined objective, goal or outcome.]

1. Draft new Section 608 of the Zoning Ordinance to ensure that the City's sign regulations are dynamic, current, and in furtherance of the Master Plan; that they carefully balance the community's aesthetic considerations with the real needs of the City's businesses; and that they are legally sound.

a) Where does this task force objective/goal/outcome fit into the City's Master Plan? Signs impact the general appearance of the City. Therefore, proper sign regulations are important to meeting the aesthetic objectives of the Master Plan, found throughout Chapter 2 (Land Use) and Chapter 11 (Historic Resources). Proper sign regulations are also critical to safe and efficient transportation networks and, therefore, aid in meeting the objections of Chapter 9 (Transportation). The Master Plan specifically calls for sign design standards for the Mechanic Street corridor between Exit 19 and South Park Street. See Chapter #2 (Land Use), paragraph D-2l.

b) Where does this task force objective/goal/outcome fit into the Steering Committee for the Implementation of the Master Plan (SCIMP)\* work plan? n/a

c) Where does this task force objective/goal/outcome fit into the City's work plan and outcomes measures? n/a

d) Where does this task force objective/goal/outcome fit into the City's budget process? n/a – no budget required

Membership composition:

- Representatives from the following City Boards & Committees:
  - City Council,
  - Planning Board,
  - Economic Vitality Exchange Committee,

- Heritage Commission, and
- Pedestrian & Bike Advisory Committee.
- Representatives from the Lebanon Chamber of Commerce.
- Members of the business community including, at a minimum, business owners from each of the City's commercial nodes including downtown Lebanon, downtown West Lebanon, Miracle Mile, Mechanic Street, Route 120, and Route 12A.
- Interested residents who are not otherwise members of any of the City's boards and committees.

[Note: 1. Composition of any given task force may vary based on its scope and objective. Ex: strictly citizens, strictly city council, City Council &/or regulatory board representation, consultant, etc. 2. Based up on the information provided on the form, this task force will be assigned to the appropriate city department, city staff member, regulatory board (PB, CC, SCIMP, etc.) or consultant.]

Sunset Date: September 1, 2017 (i.e.: deadline for final task force report to be presented to the full Council).

City Council Action:

- Sunset report presented, accepted and task force disbanded \_\_\_\_\_ (Date)
- Sunset report presented, accepted and task force work scheduled for extension/modification pending completion and acceptance of avnew task force template form. \_\_\_\_\_ (date).

\*The Steering Committee for the Implementation of the Master Plan (or SCIMP) is charged with the implementation of the City's Master Plan. They determine which of the Master Plan outcomes, strategies and action items are priorities for a given year, how best to implement them, and provide a forum for educating themselves and the public on ideas and techniques to implement planning and zoning for Lebanon. Their recommendations are passed on to the Planning Board for action.