

believed that they would continue to take people away from the I-95 hotels and into the Vero Beach and Sebastian areas.

ON MOTION by Vice Chairman Flescher, SECONDED by Chairman Solari, the Board unanimously directed staff to research Indian River County and provide a report that would show: (1) where hotels would be appropriate or possible; (2) the existing hotels and the number of rooms they currently have on the east and west sides of US-1; (3) the most recent estimate of short term rentals in the County; and (4) suggestions on how to increase the number of hotel beds.

- B. Commissioner Joseph E. Flescher, Vice Chairman
None

14. COMMISSIONERS MATTERS

- C. Commissioner Wesley S. Davis
None

- D. Commissioner Peter D. O’Bryan

10:39
a.m.

- 1. Deferred From Meeting of June 21, 2016:
Rewrite of County Code Section 956.15
(memorandum dated June 13, 2016)

137-144



Commissioner O’Bryan provided background and requested the Board to consider directing staff to rewrite Section 956.15 Regulations for Temporary Signs Requiring Permits, of the Indian River County Code, which regulates temporary signs. He believed the Supreme Court decision of Reed versus the Town of Gilbert, Arizona made this Section invalid.

MOTION WAS MADE by Commissioner O’Bryan, SECONDED by Vice Chairman Flescher, to direct staff to rewrite Section 956.15 Regulations for Temporary Signs Requiring Permits.

Commissioner Zorc sought and received clarification regarding the rules of temporary and permanent signs.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

10:46
a.m.

- 2. Update from FAC Annual Conference
(memorandum dated June 29, 2016)

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Commissioner O’Bryan provided an update from the Florida Association of Counties (FAC) Annual Conference.

June 21, 2016
ITEM 14.D.1

INDIAN RIVER COUNTY
BOARD OF COUNTY COMMISSIONERS

INTER-OFFICE MEMORANDUM

TO: Members of the Board of County Commissioners

DATE: June 13, 2016

SUBJECT: Rewrite of County Code section 956.15

FROM: Peter O'Bryan
Commissioner, District 4

PDOB

Request the Board to consider directing staff to rewrite section 956.15 of county codes, "Regulations for temporary signs requiring permits." This section has become invalid due to the Supreme Court decision of Reed v. Town of Gilbert, Arizona.

Back up provided.

SUPREME COURT OF THE UNITED STATES

**REED ET AL. v. TOWN OF GILBERT,
ARIZONA, ET AL.**

No. 13–502. Argued January 12, 2015—
Decided June 18, 2015

A sign regulation that “on its face” considers the message on a sign to determine how it will be regulated is content-based. Justice Thomas emphasized that if a sign regulation is content based “on its face” it does not matter that the government did not intend to restrict speech or to favor some category of speech for benign reasons.

- Justice Thomas's opinion calls into question almost every sign code in this country:
- Few, if any, codes have no content-based provisions under the rules announced in *Reed*.

The Alito Concurrence

"I will not attempt to provide anything like a comprehensive list, but here are **some rules that would not be content-based:**"



REGULATIONS

Rules regulating size "based on any content-neutral criteria,
Rules regulating the locations in which signs may be placed

- Rules distinguishing between –
 - "lighted and unlighted signs"
 - "signs with fixed messages and electronic signs with messages that change"
- placement of signs on
 - public and private property
 - commercial and residential property

Regulations

- Rules distinguishing between on premises and off-premises signs"
- Rules restricting the total number of signs per mile of roadway"
- Rules imposing time restrictions on signs advertising a one-time event,

Section 956.15. - Regulations for temporary signs requiring permits.



The requirements of this section apply to temporary signs erected for political campaigns and for special events. For purposes of this section, special event signs are temporary signs announcing special events to be sponsored by a charitable, educational, or religious institution, or a commercial entity. Said temporary signs shall require issuance of a permit by the code enforcement official, except as otherwise specified herein. Prior to the placement of any of the described temporary signs all relevant provisions of this chapter shall be satisfied.

- (1) *Sign permit required.* Except for a free expression sign posted by an owner on his or her property, no temporary political campaign sign or special event sign shall be displayed in the unincorporated area of Indian River County unless a county sign permit has been obtained subject to the provisions of this section. A single overall sign permit may be obtained for placement of more than one (1) temporary sign, including multiple signs displayed as part of a countywide campaign or advertisement of a special event. No more than twenty (20) signs shall be displayed in the unincorporated county for a special event. For political campaigns, there is no limit on the total number of signs displayed in the unincorporated county when such signs are otherwise displayed in compliance with the requirements of this section.
- (2) *Application.* The applicant shall submit a written application on a form to be provided by the code enforcement official which stipulates the conditions under which the temporary sign(s) are being requested. In addition to sign application information required pursuant to section 956.05, the application should include the following:
 - (a) Nature of the temporary sign(s). If the temporary sign(s) relate to a special event, include the location of the special event and daily schedule of activities;
 - (b) Duration of special event or campaign. Include dates of commencement and termination of the special event or political campaign;
 - (c) Sign distribution. Include the proposed distribution of signage and such other information as the county may require to ensure consistency with the spirit, intent, and purpose of this chapter;
 - (d) Responsible agents. Identify the name of the sponsoring entity and principal contacts responsible for erecting and removing signage.
- (3)

Duration of sign display restricted. Temporary special event signs may be erected for a period of time not to exceed seven (7) calendar days within any six-month period. Temporary signs associated with a Temporary Use Permit issued under County Code Chapter 972, Temporary Uses, may be erected for a period of time concurrent with the timeframe of the approved event. Temporary political campaign signs may be displayed no more than ninety (90) days prior to the election in which the candidate's name or the issue will appear. Any unopposed candidate in the first primary who will face opposition in the following general election may erect temporary political signs ninety (90) days prior to the first primary, notwithstanding the fact that the candidate's name will not appear on the first primary ballot.

- (4) *Temporary signs in residential districts.* Temporary signs for political campaigns or special events are allowed in residential districts, as defined in Chapter 901, Definitions, subject to the following provisions:
- (a) One (1) sign per special event, candidate or issue is allowed per lot or parcel of land. The allowable signage shall not exceed nine (9) square feet per sign; OK
 - K(b) Signs shall not be illuminated and shall be freestanding;
 - K(c) Signs shall be located wholly on the private property and shall be placed at least five (5) feet from all rights-of-way and fifteen (15) feet from all other property lines, and shall not exceed five (5) feet in height.
- (5) *Temporary signs in nonresidential districts.* Temporary signs for political campaigns or special events are allowed in nonresidential zoning districts subject to the following provisions:
- (a) One (1) sign per special event, candidate or issue is allowed per lot or parcel of land. The allowable signage shall not exceed (16) square feet per sign; OK
 - K(b) Signs shall be located wholly on the private property and shall be placed at least five (5) feet from any right-of-way and fifteen (15) feet from all other property lines and shall not exceed ten (10) feet in height.
- (6) *Compliance with conditions of sign(s) placement and removal.* The applicant shall place signs in a manner consistent with the terms of county sign regulations and remove the same pursuant to the schedule approved as a condition of permit approved. In addition, the applicant shall agree to conditions necessary to ensure that potential issues identified by the county shall be effectively managed in order to promote the public safety, avoid excessive proliferation of signage, and protect the economic and business climate and appearance of the community. Concerning the placement and removal of temporary political campaign and special event signs, the following shall apply:
- (a) All temporary signs must be removed within five (5) days after the special event or, regarding political campaign signs, after the election in which the candidate is eliminated or elected or after the resolution of the respective issues by referendum;
 - K(b) The placement of temporary signs upon any tree, utility pole, or similar

object is prohibited;

- OK (c) The placement of any temporary sign without permission of the owner of the property upon which the sign is placed is prohibited;
- (d) The placement of any temporary sign in a public or private road right-of-way is prohibited; however, the public works department may approve placement of temporary traffic/directional signs within rights-of-way in accordance with subsection 956.11(2)(b). For purposes of this regulation, the road right-of-way line shall be deemed to be the edge of sidewalks or utility poles furthest from the road. Where no such structure(s) are present, the right-of-way line shall be deemed to be twenty (20) feet back from the near edge of roadway pavement or, if unpaved, the near edge of unpaved roadbed surface.

(Ord. No. 90-16, § 1, 9-11-90; Ord. No. 95-10, § 22, 5-31-95; Ord. No. 98-9, § 3C, 5-19-98; Ord. No. 2012-030, § 4, 7-10-12)

Section 956.15.1. - Regulations for active subdivision or real estate development signs.



On-premise active subdivision or real estate development signs may be erected subject to compliance with the following conditions in addition to other applicable provisions of the sign ordinance. These signs are not subject to subsection 956.11(2)(h), "Real Estate For Sale, Lease, or Rental Signs."

- Generally OK (1) *Character of sign.* Such signs shall not exceed forty-eight (48) square feet except in single-family residential districts where they shall not exceed twenty-four (24) square feet for model homes and sales offices only. One (1) additional sign may be erected on a site having a street frontage in excess of three hundred (300) feet. Such sign must be located on the premises of the developing project or subdivision, at least five (5) feet from all rights-of-way, and at least twenty (20) feet from contiguous property lines of adjacent landowners. These signs may be illuminated.
- OK (2) *Number of signs permitted.* Only one (1) such sign shall be permitted for each common roadway along the perimeter of the development. Such sign must be located on the premises of the development, at least five (5) feet from all rights-of-way, and at least twenty (20) feet from contiguous property lines of adjacent landowners. These signs may be illuminated.
- OK (3) *Filing of plat and/or site plan.* Prior to the erection of such a sign, an approved preliminary plat or a site plan for the development, as applicable, shall be placed on file with the community development department.
- OK (4) *Authorization for sign placement.* Only the exclusive agent of the developer or owner of the property shall be authorized to place a sign on the property. The property owner's signed authorization consenting to the placement of a sign

representing an exclusive real estate agent on such premises shall be filed with the community development department prior to the placement of the agent's sign.

- (5) *Time limitation.* Active subdivision or real estate development signs shall be removed once fifty (50) percent of the subdivision or development is sold or leased by the developer.

(Ord. No. 98-9, § 3D, 5-19-98; Ord. No. 2012-030, § 5, 7-10-12)