CITY OF SEQUIM

FACT SHEET

Lightpole Displays and Government Speech

SUMMARY

Streetlight poles and similar infrastructure located within public rights-of-way are not available for signage or displays except in the interest of furthering the "government speech" purposes of the City of Sequim. Only the City may use such structures for messaging purposes.

BACKGROUND

Streetlights, utility poles, and traffic control signposts line every public street and frequently attract businesses, organizations, and anyone else with something to say or advertise who may believe that a lightpole or signpost is a great place to do that. However, such structures are *not* considered "free speech" forums even if they exist in the vicinity of a "traditional" public forum like a sidewalk or park. Governments can adopt -- and the City of Sequim has adopted -- prohibitions on "signs" of any kind being placed on such infrastructure unless it is with City permission and for a City purpose.

Court decisions have made clear that governments including cities can exert their own right to "speak" under a doctrine known as "government speech." Government speech allows a city to adopt policies limiting the messaging that appears on or in certain places that are logically associated with the city without such restrictions being considered an infringement on anyone else's free speech rights.

CURRENT STATUS

The City of Sequim regulates signs under Sequim Municipal Code (SMC) Chapter 18.58. "Signs" do not need to include words or logos. Flags, banners, festoons, bunting, and holiday ornaments are also all "signs" for purposes of these regulations.

SMC 18.58.065(F) and 18.58.070(H) contain the specific rules for signs (including decorations) placed on streetlight poles and similar structures in the public rights-of-way. These code sections prohibit any use of lightpoles without a written permit or agreement approved and signed by the City of Sequim. The City enforces these restrictions in the interest of protecting its government speech rights, preventing unauthorized access to City infrastructure, and reducing risk of personal injury and property damage. The City is not authorizing any other users of its streetlights, utility poles, or signposts at this time.

Currently, the City uses its own employees for all lightpole installations and maintenance, including holiday ornaments, flower baskets, color banners for major events organized or co-sponsored by the City (Sunshine and Irrigation Festivals, and Lavender Weekend), and the American flag on appropriate occasions. No other flags, banners, decorations, or signs are allowed on streetlights, utility poles, or signposts within the public rights-of-way.[1]

The City will continue to use certain infrastructure in rights-of-way for its own government speech purposes, including promotion of City events and initiatives that contribute to Sequim's beautification and community spirit.

SOURCES – ORDINANCES AND CASE LAW

Sequim Municipal Code 18.58.070 (Sign Code – Prohibited Signs)

Sequim Municipal Code 1.20.020 (Flag Display – Allowed Flags on City Property)

Pleasant Grove City, Utah, et al., v. Summum, 129 S.Ct. 1125, 55 U.S. 460 (2009) and *Walker v. Texas Division, Sons of Confederate Veterans, Inc.*, 115 S.Ct. 2239, 576 U.S. 200 (2015) – Two U.S. Supreme Court cases distinguishing permissible government speech from impermissible regulation of free speech. See also *Shurtleff v. City of Boston*, 596 U.S. ____ (2022).

City of Seattle v. Mighty Movers, Inc., 96 P.3d 979, 152 Wash. 2d 343 (2004) – Washington Supreme Court upheld city ordinance prohibiting posting of signs and other items on city utility poles, holding that utility poles are not public forums.

[1] The tourism banner facility on W. Washington Street and the City's official flag poles are regulated separately pursuant to R2017-014 and SMC Chapter 1.20, respectively.