stantial" or "important" (but not necessarily "compelling"), and it requires that the restriction be narrowly tailored (but not necessarily the least restrictive means to advance the governmental interest). Speech restrictions to which the Court does not apply strict scrutiny include those that are not content-based (time, place, or manner restrictions; incidental restrictions) and those that restrict categories of speech to which the Court accords less than full First Amendment protection (campaign contributions; commercial speech).[550] Note that restrictions on expression may be content-based, but will not receive strict scrutiny if they "are *justified* without reference to the content of the regulated speech."[551] Examples are bans on nude dancing, and zoning restrictions on pornographic theaters or bookstores, both of which, although content-based, receive intermediate scrutiny on the ground that they are "aimed at combating crime and other negative secondary effects," and not at the content of speech.[552]

The Court uses tests closely related to one another in free speech cases in which it applies intermediate scrutiny. It has indicated that the test for determining the constitutionality of an incidental restriction on speech "in the last analysis is little, if any, different from the standard applied to time, place, or manner restrictions,"[553] and that "the validity of time, place, or manner restrictions is determined under standards very similar to those applicable in the commercial speech context."[554]

In addition, the Supreme Court generally requires—even when applying less than strict scrutiny—that, "[w]hen the government de-

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[550] *E.g.*, Frisby v. Schultz, 487 U.S. 474, 481 (1988) (time, place, and manner restriction upheld as "narrowly tailored to serve a significant government interest, and leav[ing] open ample alternative channels of communication"); Ward v. Rock Against Racism, 491 U.S. 781, 798–799 (1989) (incidental restriction upheld as "promot[ing] a substantial governmental interest that would be achieved less effectively absent the regulation"); Buckley v. Valeo, 424 U.S. 1, 25 (1976) (campaign contribution ceiling "may be sustained if the State demonstrates a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgment of associational freedom"); Board of Trustees v. Fox, 492 U.S. 469, 480 (1989) (commercial speech restrictions need not be "absolutely the least severe that will achieve the desired end," but must exhibit a "'fit' between the legislature's ends and the means chosen to accomplish those ends—a fit that is not necessarily perfect, but reasonable . . . " (internal quotation mark and citation omitted)). *But see* Thompson v. Western States Medical Center, 535 U.S. 357, 371 (2002) (commercial speech restriction struck down as "more extensive than necessary to serve" the government's interests).

[551] Renton v. Playtime Theatres, Inc., 475 U.S. 41, 48 (1986) (emphasis in original).

[552] Erie v. Pap's A.M., 529 U.S. 277, 291 (2000) (upholding ban on nude dancing); Renton v. Playtime Theatres, Inc., 475 U.S. 41, 47 (1986) (upholding zoning of "adult motion picture theaters"). Zoning and nude dancing cases are discussed below under "Non-obscene But Sexually Explicit and Indecent Expression."

[553] Clark v. Community for Creative Non-Violence, 468 U.S. 288, 298 (1984).

[554] United States v. Edge Broadcasting Co., 509 U.S. 418, 430 (1993).