

CITY OF LAKE STEVENS
LAKE STEVENS, WASHINGTON

ORDINANCE NO. 1064

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, ADOPTING FINDINGS OF FACT; ADOPTING INTERIM ZONING CODE REGULATIONS REGULATING TEMPORARY NONCOMMERCIAL SIGNS; PROVIDING FOR THE DURATION OF THIS ORDINANCE AND PUBLIC HEARING; ESTABLISHING A WORK PROGRAM; PROVIDING FOR SEVERABILITY, EXPIRATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Lake Stevens is authorized to impose moratoria and interim land use controls pursuant to RCW 36.70A.390 and RCW 35A.63.220; and

WHEREAS, the Lake Stevens City Council has determined that the adoption of interim sign code regulations relating to case law regarding the *Reed v. Town of Gilbert* United States Supreme Court decision is necessary to allow for the enforcement of local regulations addressing the placement of non-commercial temporary signs; and

WHEREAS, as noted by Justice Alito in *Reed v. Town of Gilbert*: “In addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech. See *Pleasant Grove City v. Summum*, 555 U.S. 460, 467-469 (2009). They may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots”; and

WHEREAS, the City of Lake Stevens finds that health, safety and welfare is addressed in the proposed interim sign code language to promote safety, give needed direction and protect users of the public right of ways; and

WHEREAS, the City is proposing that interim regulations be adopted concerning the placement of non-commercial temporary signs within the City supported by a detailed work program/schedule. The council will analyze the effectiveness of the interim standards with the information and data acquired during the interim timeframe; and

WHEREAS, state statute allows interim land use controls to be effective for up to one year if a work plan is developed for related studies providing for such longer period pursuant to RCW 36.70A.390 and RCW 35A.63.220; and

WHEREAS, the Lake Stevens City Council is directing the Lake Stevens Planning Commission to review the interim language and city sign code consistent with the work plan/schedule attached hereto as Exhibit A and Scope of Work attached hereto as Exhibit B, which exhibits are incorporated herein by

this reference, and provide a recommendation to the Council for the adoption of permanent amendments to the city sign code in Chapter 14.68 LSMC; Now, therefore,

THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts the recitals expressed above as findings in support of this ordinance.

Section 2. Purpose. The purpose of this interim zoning ordinance is to enact for the term of this ordinance an update to the Sign Code, which addresses the regulation of temporary non-commercial signs within the City.

Section 3. Interim Zoning Regulations. Lake Stevens Municipal Code 14.08.010 is hereby amended for the term of this ordinance so that the definition of “Temporary Sign” reads as follows:

“Temporary sign” means those signs that are intended and designed to be displayed for a limited period of time. They must be made of cloth, paper, cardboard or similar lightweight material and must be installed to be easily removed. Signs made of other more substantial materials shall be considered permanent and are subject to the permanent sign regulations of this chapter. They may not be permanently mounted, painted, or affixed to a permanent structure or building.

Section 3. Interim Zoning Regulations. A new Lake Stevens Municipal Code section 14.68.015 is hereby adopted for the term of this ordinance, to read as follows:

- a) Notwithstanding any language to the contrary in this chapter, the temporary non-commercial sign regulations contained in this section shall be controlling in the event of any discrepancy or inconsistency with any other sign code provision contained in the remainder of Chapter 14.68 LSMC.
- b) Types of Temporary Non-Commercial Signs Allowed. The temporary non-commercial signs types listed below are subject to the specific regulations identified in this section in addition to the further regulations contained in (d) and (e) below.
 1. Stake or Picket Signs.
 - i. A sign supported by stakes or frame is considered temporary in nature and may not have any foundational element such as concrete or rely upon any structural support from adjacent fixtures.
 2. A-Frame Signs.
 - i. A-frame signs must be constructed in a manner to ensure the sign remains in an upright placement and will not spread and expand its footprint beyond the width as originally placed or into designated any walking paths or sidewalks.
 3. Banners.
 - i. No banner shall be placed on any public structure including walls, fences or buildings or over or across any passable roadway, driveway, or alley.

- ii. If placed above a pedestrian passable area such as a sidewalk, entrance, or access point, the lowest part of the banner must be higher than 8 feet.
 - iii. Banners must be constructed in a manner to withstand wind so that the banner substantially maintains its installed position.
- 4. Window/Poster.
 - i. Cumulatively, all window signs and posters, along with all permanent signs located on or in front of windows, may not cover more than 25% of the viewable window space.
- c) Prohibited Temporary Non-Commercial Signs. Prohibited signs are those signs not listed in (b) above and include, but are not limited to, the following:
 - 1. Inflatable – includes balloons or other gas-filled figures.
 - 2. Feather signs – defined as a vertical portable sign that contains a harpoon-style pole or staff driven into the ground for support or supported by means of an individual stand.
 - 3. Animated – includes any sign with action or motion (including those that flash, oscillate or revolve) or one that involves color changes.
- d) Temporary Non-commercial Signs in Public Right-of-Way.
 - 1. Location. Temporary non-commercial signs are prohibited from being placed within: roundabouts; medians; shoulders; travel lanes; and areas of the public right-of-way that are not accessible by a sidewalk or pedestrian walking path. Temporary signs are prohibited on any public structure including utility poles, walls, fences or buildings. Temporary non-commercial signs shall not be located in right-of-way adjacent to city facilities or parks.
 - 2. Safety. All temporary non-commercial signs shall be placed in a manner that is safe for all users of the public right-of-way. Temporary non-commercial signs shall not block access to structures or parked cars, block vehicular sight distance views at corners or intersections, or block pedestrian walking paths. No temporary non-commercial sign shall mimic, or be attached to, official roadway signage (stop signs, yield, etc.).
 - 3. Landscaping. If temporary non-commercial signs are placed in the right-of-way in a manner that punctures the ground (for example, the placement of a stake or picket sign), the sign owner is responsible to ensure such placement into the ground does not damage any infrastructure that is located under the surface, include but not limited to irrigation and utility infrastructure.
 - 4. Duration. All temporary signs covered by this section may be placed until the interim temporary non-commercial sign regulations are replaced with permanent regulations, at which time all such signs must comply with the durational limits provided for in the permanent regulations.

5. No temporary non-commercial sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, bench, or any type of street furniture, or otherwise create a hazard, including a tripping hazard.
 6. All signs placed or erected that do not meet the regulations will be removed without notice.
 7. All signs shall be kept in good repair and shall be maintained in a safe, neat, clean and attractive condition.
- e) Temporary Non-commercial Signs on Private Property.
1. All temporary non-commercial signs placed on private property shall be placed with the property owner's consent.
 2. Safety. All temporary non-commercial signs on private property shall be placed in a manner that is safe. Temporary non-commercial signs shall not block access to structures, block vehicular sight distance views at corners or intersections, or block pedestrian walking paths. No temporary non-commercial sign shall mimic official roadway signage (stop signs, yield, etc.).
 3. No sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, bench, or any type of street furniture, or otherwise create a hazard, including a tripping hazard.
 4. All signs shall be kept in good repair and shall be maintained in a safe, neat, clean and attractive condition.
- f) Signs Excluded From Regulation.
1. Signs of a noncommercial nature erected/placed or directed to be erected/placed by a governmental agency, political subdivision, or municipal corporation.
 2. Signs directing and guiding pedestrian and/or automobile traffic on private property that do not exceed four square feet each and that bear no advertising matter.

Section 4. Duration of Interim Zoning Regulations/Public Hearing. The interim Zoning Code amendments adopted by this ordinance shall remain in effect for a period of six months from the effective date and shall automatically expire unless the same are extended as provided in RCW 36.70A.390 and RCW 35A.63.220 prior to that date, or unless the same are repealed or superseded by permanent amendments prior to that date. A public hearing on the interim amendments shall be held on or about September 17, 2019 but no later than sixty days following the effective date of this Ordinance. Following the public hearing the city council may take action to amend this ordinance, including the making of additional findings.

Section 5. Planning Commission Work Plan. The City of Lake Stevens Planning Commission is hereby directed to review the interim regulations consistent with Exhibits A and B attached hereto and

to make a recommendation on whether said amendments, some modification thereof, or other amendments should be permanently adopted. The Lake Stevens Planning Commission is directed to complete its review, to conduct such public hearings as may be necessary or desirable, and to forward its recommendation to the Lake Stevens City Council as scheduled.

Section 6. Copy to Commerce Department. Pursuant to RCW 36.70A.106(3), the City Clerk is directed to send a copy of this ordinance to the State Department of Commerce for its files within ten (10) days after adoption of this ordinance.

Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

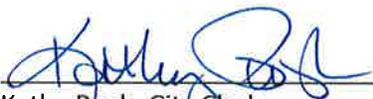
Section 8. Effective Date. This Ordinance shall take effect and be in full force five days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Lake Stevens, this 7th day of August 2019.



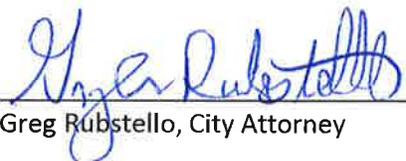
John Spencer, Mayor

ATTEST/AUTHENTICATED:



Kathy Pugh, City Clerk

APPROVED AS TO FORM:



Greg Rubstello, City Attorney

Passed by City Council: 8/7/2019
Date of Publication: 8/10/2019
Effective Date: 8/15/2019

Exhibit A

City of Lake Stevens Content Based Sign Update (Chapters 14.08, 14.38 and 14.68 LSMC) Work Plan

	Content Based Sign Update Draft Regulations				
ACTIVITY	August	September	October	November	December
Research					
Draft Code Amendments					
Draft Ordinances					
Attorney Review					
Prepare & Issue SEPA (comment/appeal)			10/9/2019		
Commerce Review – Expedited Review			10/9/2019		
Publish Notice Planning Commission Public Hearing			Notice Twice – 1 st notice 10 Days Before Hearing		
Planning Commission Review (B-briefing; PH-public hearing)		9/4/2019 (B)	10/2/2019 (B)	11/6/2019 (PH)	
Publish Notice City Council Public Hearing				Notice Twice – 1 st notice 10 Days Before Hearing	
City Council Briefings & Workshops (B-briefing; PH-public hearing)	8/7/19 – City Council Adopts interim regulations	9/17/2019 (B) 9/24/2019 (PH) interim regs	10/8/2019 (B)		12/10/2019(PH)
Effective date					Code Revisions Effective -5 Days After Publication

Purpose: Consideration of required amendments to the sign content-based regulations for inclusion in the Lake Stevens Municipal Code.



Scope of Work

Subject: Content Based Signage

BACKGROUND/HISTORY:

Non-Commercial Signs are a form of speech entitled to protection under the First Amendment. Many local sign regulations are complex, contradictory and difficult to administer. The recent U.S. Supreme Court's decision in *Reed v. Town of Gilbert* has far-reaching impacts on sign regulations for local jurisdictions. The conservative regulatory approach for a municipality is to apply content-neutral regulations. On June 18, 2015, the U.S. Supreme Court ruled that the Arizona town of Gilbert sign code was unconstitutional pursuant to content-based restrictions on speech in the regulations, and therefore in violation of the First Amendment. The town of Gilbert code identified different categories of signs based on the information they conveyed, and then applied different restrictions based on that category.

PROPOSED ACTIONS:

- A. Adopt interim ordinance to develop standards to bring the city's sign code into compliance for content neutral signage.
- B. To ensure that the city's sign code does not apply different standards based on a sign's content, staff recommends the actions below and working in concert with our City Attorney:
 1. Develop a purpose statement for the sign code regulations;
 2. Review the sign code to identify any content-based standards and eliminate those standards;
 3. Revise any sign definitions that are based on content;
 4. Avoid exemptions that are not content neutral;
 5. Review sign sizes and placement;
 6. Analyze other types of temporary signs to ensure consistent regulations are in place for time and size; and
 7. Define a permanent permit path and tracking system to ensure compliance.

The Reed decision does not preclude local government from regulating noncommercial signage in a content-neutral manner, using such factors as size and height, type of structure (freestanding vs. monument signs), materials, maximum number, electronic messaging, moving parts and portability.

The scope of the project is limited to ensuring the Lake Stevens sign code is consistent with the Reed decision with one exception – staff proposes to eliminate LSMC 14.68.160, because the Sub-Regional Commercial Zoning Districts do not exist.