

**DRAFT ORDINANCE NO. 10xx**

AN ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, CONCERNING NON-COMMERCIAL TEMPORARY SIGNAGE; ADOPTING FINDINGS OF FACT, DEFINITIONS, AND SIGN CODE REGULATIONS REPLACING INTERIM CODE REGULATIONS FOR TEMPORARY NONCOMMERCIAL SIGNS ADOPTED IN ORDINANCE 1070; PROVIDING FOR SEVERABILITY, EXPIRATION AND AN EFFECTIVE DATE; AND REPEAL OF ORDINANCE NO. 1070.

WHEREAS, the Lake Stevens City Council has determined that the adoption of sign code regulations providing consistency with the *Reed v. Town of Gilbert* United States Supreme Court decision as interpreted by decisions from the lower federal courts is necessary for continued 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. Sumnum*, 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, on April 22, 2020, the City’s SEPA Responsible Official complied with the State Environmental Policy Act (SEPA) by issuing a SEPA Determination of Non-Significance, complying with SEPA’s procedural requirements; and

WHEREAS, on April 20, 2020 the proposed amendments contained herein were transmitted to the State Department of Commerce as required by law and the Department of Commerce granted expedited review of the proposed code amendments; and

WHEREAS, the Lake Stevens City Council held a public hearing on the sign code amendments proposed herein on May 26, 2020; and

WHEREAS, the City adopted temporary regulations for noncommercial signs in Ordinance No. 1070 under the provisions of RCW 36.70A.390 and RCW 35A.63.220 and after study and public hearing on proposed temporary noncommercial sign code regulations the City Council has determined the temporary noncommercial sign regulations set forth in this ordinance should be approved and replace the interim temporary noncommercial sign regulations in Ordinance No. 1070; and

WHEREAS, the City of Lake Stevens finds that the proposed amendments set forth below will provided the necessary consistency with federal case law interpreting the U.S. Supreme Court’s *Reed v. Gilbert* decision, and further the public health, safety and welfare by providing sign code language that promotes traffic and pedestrian safety, by providing needed direction to the users of the public right of ways.

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON, DO ORDAIN AS FOLLOWS:

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

**Section 2. Definition Adopted.** The following terms are to be included in Lake Stevens Municipal Code (“LSMC”) section 14.08.010 is hereby adopted to read as follows:

*Sign, Commercial.* *Commercial sign* means a sign erected for a business transaction or advertising the exchange of goods and services.

*Sign, Construction.* *Construction sign* means any sign used to identify the architects, engineers, contractors or other individuals or firms involved with the construction of a building, or to announce the character or type of building.

*Sign, Electrical.* *Electrical sign* means a sign or sign structure in which electrical wiring, connections or fixtures are used.

*Sign, Electronic Changing Message.* *Electronic changing message sign* means an electrically activated sign whose message content, either in whole or in part, may be changed by means of electronic programming. These signs shall include those displaying time, temperature, and messages of a public or commercial nature.

*Sign, Feather or Sail.* *Feather or sail sign* means 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.

*Sign, Flashing.* *Flashing sign* means a sign or a portion thereof which changes light intensity or switches on and off in a constant pattern or contains motion or the optical illusion of motion by use of electrical energy.

*Sign, Incidental.* *Incidental sign* means a small sign, emblem or decal informing the public of goods, facilities or services available on the premises, e.g., a credit card sign or a sign indicating hours of business, which does not exceed two square feet in size.

*Sign, Noncommercial.* *Noncommercial sign* means any sign that is not a commercial sign. This definition also includes signs regarding fund raising or membership drive activities for noncommercial or nonprofit entities or groups.

*Sign, Temporary.* *Temporary sign* means any sign that is intended and designed to be displayed for a limited period of time, including, without limitation, a sign that is not permanently mounted, painted or otherwise affixed, excluding portable signs as defined by this chapter, including any poster, banner, placard, stake sign or sign not placed in the ground with concrete or other means to provide permanent support, stability and rot prevention. Temporary signs may only be made of nondurable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foamcore board, vinyl canvas or vinyl mesh products of less than twenty-ounce fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of Chapter 14.68 LSMC.

**Section 3. Temporary Sign Regulations.** A new Lake Stevens Municipal Code section 14.68.015 is hereby adopted , to read as follows:

- a) General Regulations. Notwithstanding any language to the contrary in this chapter, the temporary 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:
  1. All signs shall be kept in good repair and shall be maintained in a safe, neat, clean and attractive condition.

2. No temporary sign shall mimic, or be attached to, official roadway signage (stop signs, yield, etc.).
  3. All temporary sign shall be placed in a manner that is safe. Temporary signs shall not block access to structures or parked cars, block vehicular sight distance views at corners or intersections, or block pedestrian walking paths.
  4. No temporary 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.
  5. All signs placed or erected that do not meet these regulations will be removed without notice.
- b) Types of Temporary 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. A sign supported by a stake or wire 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. 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, unless approved within the confines of an event permit per LSMC 14.16C.065. The permit must specify where the banners will be placed. All banners are to be removed at the end of the event.
    - ii. The maximum size for temporary banners shall be 32 square feet.
    - iii. Temporary Banners on Buildings. Not more than one temporary banner per tenant space may be permitted.
    - iv. 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.
    - v. Banners must be constructed in a manner to withstand wind so that the banner substantially maintains its installed position.
  4. Feather and Sail signs.
    - i. The maximum size for feather or sail signs shall be 30 square feet per side (60 square feet total) per LSMC 14.68.050(c) and shall not exceed 12 feet in height measured from the ground to the top of the sign
    - ii. Feather or sail signs will be allowed in public rights-of-way, within the confines of an event permit per LSMC 14.16C.065. The permit must specify where the sign will be placed. All signs are to be removed at the end of the event.
    - iii. If placed adjacent to a pedestrian passable area such as a sidewalk, the feather or sail sign shall not extend into or above the pedestrian passable area.

- c) Prohibited Temporary 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. Animated – includes any sign with action or motion (including those that flash, oscillate or revolve) or one that involves color changes.
- d) Temporary Signs in Public Right-of-Way.
1. Location. Temporary 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 in rights-of-way shall not be located adjacent to city facilities or parks.
  2. If temporary signs are placed in the right-of-way, the sign owner is responsible to ensure such placement into the ground does not damage any infrastructure that is located under the surface, including but not limited to irrigation and utility infrastructure.
  3. Temporary signs in residential zones are limited in size to four square feet per side (eight square feet total) per LSMC 14.68.050(c) and shall not exceed three feet in height measured from the ground to the bottom of the sign when displayed.
  4. Temporary signs in nonresidential zones including mixed use zones are limited in size to 16 square feet per side (16 square feet total) per LSMC 14.68.050(c) and shall not exceed four feet in height measured from the ground to the bottom of the sign when displayed.
  5. Number. Signs shall not be placed within 10 feet of another temporary sign in the right-of-way and shall not otherwise be placed in a manner to create a continuous visual barrier for approaching vehicles traveling at the designated speed limit.
- e) Temporary Signs on Private Property.
1. All temporary non-commercial signs placed on private property shall be placed with the property owner's consent or person in control of the property, such as a tenant.
  2. Temporary non-commercial signs in residential zones are limited in size to 16 square feet per side (32 square feet total) per LSMC 14.68.050(c) and shall not exceed three feet in height measured from the ground to the bottom of the sign when displayed.
  3. Temporary non-commercial signs in nonresidential zones included mixed use zones are limited in size to 32 square feet per side (64 square feet total) per LSMC 14.68.050(c) and shall not exceed four feet in height measured from the ground to the bottom of the sign when displayed.

**Section 4. 14.68.020 Signs Excluded from Regulation.** Lake Stevens Municipal Code section 14.68.020 is hereby amended, to read as follows (deletions shown by strikethrough; additions by underline):

The following signs are exempt from regulation under this title:

- (a) Signs not exceeding four square feet in area that are customarily associated with residential use. Examples include names of residents, addresses, no parking, no trespassing, home occupations, beware of dog and security signs.

- (b) Non-commercial signs Signs erected/placed by or on behalf of or pursuant to the authorization of a city, county, school district, state or federal governmental agency ~~body~~, for public purposes including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.
- (c) Official signs of a noncommercial nature erected by public utilities.
- (d) Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- (e) Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain business identification, trademarks, moving parts, or lights, or are not displayed in connection with a commercial promotion or as an advertising device.
- (f) Informational 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.
- (g) School and church: bulletin boards, identification signs, and directional signs that do not exceed one per abutting street and 16 square feet in area per side (32 square feet total) per LSMC 14.68.050(c) and that are not internally illuminated.
- (h) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.
- ~~(i) Signs proclaiming religious, political, or other noncommercial messages that do not exceed one sign per abutting street and 16 square feet in area and that are not internally illuminated.~~
- (ji) Names of buildings, commemorative plaques or tablets, and similar noncommercial signs when carved into stone, concrete, or similar material, or made of bronze, aluminum, or other permanent-type construction, made an integral part of the structure, and projecting no more than two inches from the wall (when installed on a building), or at grade (when installed on the ground).
- (kj) Public information stations such as kiosks, bulletin boards, or similar devices used to convey community information.

**Section 5. Certain Temporary Signs: Permit Exemptions.** Lake Stevens Municipal Code section 14.68.030 is hereby amended, to read as follows (deletions shown by stikeout; additions by underline):

- (a) The following temporary signs are ~~permitted~~ allowed without a permit but are subject to the limitations contained within this chapter:
  - (1) Signs advertising that the property on which the sign is located is for sale, lease, or rent. ~~These~~ may not exceed four square feet in area per side with a maximum of two sides. Such signs, ~~and~~ shall be removed immediately after sale, lease, or rental per street frontage. ~~For lots of less than five acres, a single sign on each street frontage may be erected. For lots with five acres or more and street frontage in excess of 400 feet, a second sign may be erected.~~
  - (2) Off-premises signs for temporary activities customarily associated with residential uses which identify the activity, and location ~~and the person responsible for the sign~~. Temporary activities related to residential uses include those activities that are noncontinuous and occur only occasionally. They include garage sales; sale, lease or rental

of single-family residential structures or property; family gatherings; craft shows; etc. They do not include advertising home occupations.

- i. Such signs may not exceed four in number, except there shall be no maximum number of signs for garage sales, nor ~~six~~ four square feet in area per side with a maximum of two sides.
- ii. They shall only be allowed during the hours of 9:00 a.m. to 8:00 p.m., Sunday through Thursday, or 9:00 a.m. Friday until 8:00 p.m. Sunday, and only when the person conducting the activity is on-site, except that garage sale signs may be erected for a continuous period not to exceed 72 hours.
- iii. ~~Garage sale signs shall include on their back the name and address of the owner. The signs may be placed on private or public property with the permission of the owner of the property on which the sign is placed. Under no circumstances shall they be placed in the public right of way so as to encroach into a driveway, sidewalk, identifiable unimproved pedestrian walkway, or vehicular travel lanes; or obscure fire hydrants, traffic control devices, or block the vision or pathway of vehicles or pedestrians. No signs shall be posted, tacked, nailed, or in any manner affixed upon any telephone or utility pole, traffic control device, or other such public structure, or on any tree or shrub.~~

- (3) Construction site identification signs. Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including but not limited to sale or leasing information. Not more than one such sign may be erected per site, and it may not exceed 32 square feet in area. **Such signs shall not be erected prior to the issuance of a building permit and shall be removed within 10 days after completion of the project.**
- (4) Signs attached temporarily to the interior of a nonresidential building window or glass door. Such signs, individually or collectively, may not cover more than 25 percent of the surface area of the transparent portion of the window or door to which they are attached. ~~Such signs shall be removed within 30 days after placement.~~
- (5) Temporary Displays, including lighting, flags, or pennants, erected in connection with the observance of holidays or seasons when not displayed in connection with a commercial promotion or as an advertising device. These shall be removed within 10 days following the holidays or seasons.
- (6) ~~Signs erected in connection with elections or political campaigns. Such signs shall be removed within three days following the election or conclusion of the campaign. No such sign may exceed 16 square feet in surface area.~~
- (7) Signs indicating that a grand opening or a permitted event on a nonresidential site is to take place on the lot where the sign is located. No more than one such sign per frontage shall be allowed. Signs may be erected not sooner than two weeks before the grand opening or permitted event and must be removed not later than three days after the grand opening or permitted event.
- (8) ~~In all residential zones, temporary signs not covered in the foregoing categories, so long as such signs meet the following restrictions:~~
  - (i) ~~Not more than one such sign may be located on any lot.~~
  - (ii) ~~No such sign may exceed four square feet in surface area.~~

~~(iii) Such sign may not be displayed for longer than three consecutive days nor more than 12 days out of any 365 day period.~~

~~(9) In the commercial zone districts, temporary signs not covered in the foregoing categories, so long as such signs meet the following restrictions:~~

~~(i) Any number of such signs are permissible; provided, that they do not exceed 50 square feet in total area.~~

**Section 6. Sub-Regional Commercial Zoning Districts.** Lake Stevens Municipal Code section 14.68.160 is hereby repealed in its entirety as this zoning district no longer exists.

**Section 7. Copy to Commerce Department.** Pursuant to RCW 36.70A.106(3), the City Clerk will send a copy of the permanent ordinance to the State Department of Commerce for its files within ten (10) days after adoption.

**Section 8. 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 9. 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. On the effective date of this ordinance, Ordinance No. 1070 shall be repealed in its entirety.

**PASSED** by the Council and approved by the Mayor of the City of Lake Stevens, this 26th day of Month 2020.

CITY OF LAKE STEVENS

\_\_\_\_\_  
Mayor Brett Gailey

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Kathy Pugh, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

\_\_\_\_\_  
Greg Rubstello

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO. 10XX