

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MCCLEARY REPEALING AND REPLACING MCCLEARY MUNICIPAL CODE SECTION 17.28.090 “SIGNS”; ADOPTING NEW RULES AND REGULATIONS GOVERNING SIGNS IN THE CITY OF MCCLEARY.

RECITALS:

WHEREAS, United States Supreme Court decisions, specifically *Reed v. Gilbert*, has changed the manner in which signs may be regulated; and

WHEREAS, City of McCleary staff is intent on keeping Sign Code within the Municipal Code compliant with all Federal and State statutes and court decisions; and

WHEREAS, City of McCleary staff determined that the manner in which signs are regulated in the City of McCleary may be more easily and effectively accomplished by categorizing signs by their physical appearance rather than message; and

WHEREAS, the City Council held a public hearing on _____ to consider this Ordinance; and

WHEREAS, the City finds that repealing and replacing MMC Section 17.28.090 with the proposed sign verbiage will ensure the City’s Municipal Code is aligned with the Supreme Court decision and will make the administration of the Sign Code more simple and equitable for City staff, citizens, and business owners alike;

NOW, THEREFORE, the City Council of the City of McCleary, Washington do ordain as follows:

SECTION I: MMC Section 17.28.090 titled “Signs”, last amended by Ordinance 749 sec. I, 2008, is repealed in its entirety.

SECTION II: MMC Section 17.28.090 titled “Temporary and Special Signs” is hereby added to read as follows:

17.28.090 Temporary and Special Signs

A. Scope and Purpose: This chapter establishes regulations governing the installation, alteration, relocation, maintenance, use and removal of all signs in the City. It is recognized that the businessperson’s right to identify their business contributes to the economic well-being of the community; however, that right should be exercised in a way as to bring benefit to the businessperson without affecting the welfare of the public. In general, this City takes the view that signs should be scaled to the building and property frontage to which the sign is related. The purpose of these regulations is to accomplish the following:

1. Promote the goals and policies of the comprehensive plan;
2. Promote economic vitality of the City’s business districts and corridors;
3. Ensure that signs are compatible with the desired character and identity of McCleary and its various districts and corridors;
4. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, and/or illegible signage;
5. Prevent property damage, personal injury, and litter from signs which are improperly constructed, poorly maintained, or of flimsy materials;
6. Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape;
7. Provide consistent sign design standards;
8. Promote signs that are designed appropriate to the site’s existing and planned context, including the size and characteristics of the site, and the envisioned character of the applicable area per adopted plans;
9. Prevent visual clutter and provide an improved visual environment for the citizens of and visitors to the City; and
10. Enable the fair and consistent enforcement of these sign regulations.

B. Sign definitions:

1. “Abandoned sign” means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity, or for which no legal owner can be found.

2. “Commercial sign” means a sign erected for a business transaction or advertising the exchange of goods and services.
3. “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.
4. “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.
5. “Freestanding sign” means a permanent pole, ground or monument sign attached to the ground and supported by uprights or braces attached to a foundation in the ground and not attached to any building.
6. “Permanent sign” means a sign constructed of weather-resistant material and intended for permanent use and that does not otherwise meet the definition of “temporary sign.” Wall-mounted sign holders designed for insertion of signs and posters shall be considered permanent signage and subject to all standards of Chapter 17.28.090 MMC.
7. “Portable sign” means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported. Portable signs include, but are not limited to, signs designed to be transported by means of wheels, A-frame signs, menu and sandwich board signs, and advertising flags.
8. “Projecting sign” means any sign, other than a flat wall sign, which is attached to and projects more than twelve inches from a building wall or other structure not specifically designed to support the sign.
9. “Roof sign” means any sign erected over or on the roof of a building or attached to the wall of a building and extending above the roofline.
10. “Sign” means any device, structure, fixture, placard, painted surface, awning, banner or balloon using graphics, lights, symbols and/or written copy designed, used or displayed for the purpose of advertising, informing, identifying, attracting attention to, or promoting the interest of any person, institution, business, event, product, goods or services; provided, that the same is visible from a street, way, sidewalk, or parking area open to the public.
11. “Sign area” means the entire area of a sign on which copy is to be placed. Sign structure, architectural embellishments, framework and decorative features which contain no written or advertising copy shall not be included. Sign area shall be calculated by measuring the perimeter enclosing the extreme limits of the module or background containing the advertising or identifying message; provided, that individual letters using a wall as the background, without added decoration or change in wall color, shall have a sign area calculated by measuring the smallest rectangle enclosing each letter and totaling the square footage thereof. For double-faced signs, total sign area shall be calculated by measuring only one face.
12. “Sign height” means the vertical distance from grade to the highest point of a freestanding sign or any vertical projection thereof, including its supporting columns. Grade shall be determined by taking the average elevation at finished grade for the midpoints of the four

sides of the smallest rectangle that will enclose all area which is within a five-foot horizontal radius of the sign and its supporting structure.

13. “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 17.28.090 MMC.

C. General Requirements:

1. The construction and placement of all signs shall conform to the International Building Code and be pre-approved by the city council and/or staff.
2. Prohibited Signs. The following signs are prohibited:
 - a. Signs or sign structures which by coloring, shape, design or location resemble or conflict with traffic control signs or devices;
 - b. Signs that create a safety hazard for pedestrian or vehicular traffic, as determined by the Director of Public Works or the city building official;
 - c. Revolving signs, signs with flashing, rotating, or blinking lights. This includes signs with a changing light intensity or brightness, or which are so constructed and operated as to create an appearance or illusion of motion or animation;
 - d. Signs attached to public property without permission of the government agency owning the same, including, without limitation, trees, utility poles, street lights;
 - e. Privately installed signs that restrict use or activity of any public right-of-way without permission from the City.
3. Maintenance. All signs and components thereof must be maintained in good repair and in a safe, neat, clean and attractive condition. The owner of the lot upon which the sign is located shall be responsible for sign maintenance.
4. Abandoned Signs—Hazardous Signs. Abandoned signs shall be removed by the owner or lessee of the premises upon which the sign is located within six months of abandonment. Signs which constitute a safety hazard to the public shall be removed or made safe immediately.
5. Sign Enforcement—Violations—Penalties.
 - a. Enforcement. The public works director, or the public works director’s designee, shall have authority to administer, implement, and enforce this chapter. The public works director or public works director’s designee may promulgate regulations consistent with this chapter. The authority of the public works director is not exclusive and is concurrent to another’s lawful authority to enforce the provisions of this chapter, including, without

- limitation, the jurisdiction of the McCleary police department to enforce provisions of this code.
- b. Violations. It is a violation of this chapter to fail to comply with or to be in conflict with any provision of this chapter. It shall be a separate offense for each and every day during which any violation of any of the provisions of this chapter is committed, continued, or permitted.
- c. Penalties.
- A. Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this chapter shall be subject to the provisions of Chapter 1.20 MMC.
- B. Any violation of any provision of this chapter constitutes a public nuisance which the City can abate by an action in county superior court. The costs of such action shall be taxed against the violator.
- C. Penalty and enforcement provisions provided in this chapter are not exclusive, and the City may pursue any remedy or relief it deems appropriate.
- d. Removal. Signs not meeting the requirements of this chapter are subject to removal by the City. This includes the following:
- A. Signs located on public or private property that create an immediate threat to the safety of the public.
- B. Signs that create an imminent danger to persons or property.
- C. Signs placed in the public right-of-way that do not meet the requirements of this chapter.
- D. Unauthorized signs placed on any utility pole, public property, public building or public structure, or on any traffic sign.
- E. Signs placed within the right-of-way without the permission of the abutting property owner may be removed by the abutting property owner or the City.
- F. Temporary signs placed within the public right-of-way that may otherwise be allowed by this chapter, but which are in a degraded or dilapidated state due to age, exposure to the elements, or damage may be removed by the City. This includes signs that are illegible.
- G. The property owner is responsible for removing any sign advertising a commercial use that has been discontinued for longer than thirty days.
- H. The public works director or his/her designee will attempt to contact the owner after removal of signs. The owner may contact the public works director or his/her designee to retrieve any signs removed. Failure to retrieve within fourteen days from date of removal will result in disposal by the City. The City shall not be responsible for damages or loss incurred during the removal or storage of any sign.
6. Sign Owner Responsibility. By installing any sign in the City of McCleary, the owner of the sign acknowledges responsibility for compliance with this chapter, for the safety of the sign, and for any and all damage to property or injury to person resulting from the sign.

D. Development standards for specific sign types: The following standards shall apply in addition to the standards listed elsewhere in this chapter. For signs that meet the definition of more than one sign type, the public works director shall determine which standards apply based on the sign's function, location and orientation.

1. No sign, except for traffic signs, portable signs, or other signs approved by the City council, shall be located within the right-of-way of any street or highway, nor project beyond authorized property lines, except as provided below:

a. Projecting signs in the C-1 and C-2 districts and authorized by the City shall extend no closer than two feet to the edge of the roadway and provide a minimum clearance of ten feet from the highest existing grade.

2. *Freestanding Signs.* The following regulations shall apply to all portable signs:

a. Freestanding signs must have a substantial base that is at least half as wide and thick (measured horizontally) as the sign itself. Sign bases must have an architectural treatment that incorporates materials similar to the sign and/or building.

b. *Protective Islands Around Sign Base.* At the time of installation, all freestanding signs shall include protective islands and curbing to prevent vehicles from hitting the sign structure and to improve the overall visual appearance of the structure. Protective islands shall be designed and constructed so as to provide protection at least three feet in all directions from the sign structure.

c. *Location.* Freestanding signs shall not be located within the public right-of-way.

d. *Identification Signs for Residential Development.* Each entrance to a subdivision development or manufactured home park may have a freestanding or fence-mounted identification sign up to thirty-two square feet in area. The height of such signs shall not exceed four feet.

e. Freestanding signs shall not extend more than five feet above the highest exterior wall of the building it serves or, if mounted on the roof ridge line more than two feet above that ridge line.

3. *Portable Signs.* The following regulations shall apply to all portable signs:

a. Portable signs shall not exceed nine square feet per side.

b. No more than one portable sign may be displayed per entity.

c. Signs shall be located directly in front of the sponsoring entity during business hours only.

d. Signs shall be located so as not to create a traffic safety hazard by obstructing the vision of motorists on private property or public right-of-way.

e. Owners of such signs shall assume liability for damage or injury resulting from their use and shall provide the City with an appropriate legal document satisfactory to the City attorney holding the City harmless and indemnifying the City for such resulting loss and/or injury.

f. Portable signs shall be nonilluminated.

g. Portable signs shall be displayed only during business hours.

4. Projecting Signs. The following regulations shall apply to all projecting signs:
 - a. Projecting signs shall not extend more than five feet above the highest exterior wall of the building it serves or, if mounted on the roof ridge line more than two feet above that ridge line.
 - b. Projecting signs shall not be located directly over windows or in conflict with other signs or architectural features of the building as determined by the City.
5. Assisted Care Facility Signs. Subject to prior approval by the City administrator, off-premises directional signs providing guidance to the location of an assisted care facility licensed by the State of Washington subject to the following conditions:
 - a. The use is located upon property at least one block from Simpson Avenue, South 3rd Street, or North Summit Road.
 - b. The sign shall be directional in nature indicating only the name of the facility and the direction of travel required to reach the facility.
 - c. No more than two signs for each facility.
 - d. The sign or signs requested to be placed shall be obtained and installed by the City. Prior to ordering of the sign/s, the applicant shall pay to the City the estimated cost of such acquisition and the placement by City staff. In the event the estimate is less than the actual cost incurred, the applicant shall pay such cost upon the billing therefore: Provided that, in the event of the failure to pay within thirty days of such billing, the City may remove the sign/s. If the estimate is higher than the actual costs incurred, the applicant shall be reimbursed the excess.
- E. Temporary signs. These standards apply to all signs meeting the definition of temporary signs in this title.
 1. General Requirements for Temporary Signs.
 - a. 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.
 - b. Duration. All temporary signs shall be removed within ten days following the event or activity being promoted.
 2. Temporary Signs in Public Right-of-Way.
 - a. 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 shall not be located in right-of-way adjacent to public property owned or under the control of a unit of federal, state or local government, or special purpose district such as a school, park, public utility, port or library district, unless otherwise approved by the unit of government or special purpose district.
 - b. Safety. All temporary signs shall be placed in a manner that is safe for all users of public right-of-way. Temporary signs shall not block access to structures or parked cars, and shall not block vehicular sight distance at corners or intersections.

- c. Residential Zones. Temporary signs in residential zones are limited in size to four square feet total, and shall not exceed three feet in height from the ground when displayed.
 - d. Nonresidential Zones. Temporary signs in nonresidential zones are limited in size to six square feet total, and shall not exceed three feet in height from the ground when displayed.
 - e. Temporary signs shall only be placed in the right-of-way if the sign owner has permission from the owner of the abutting property.
3. Temporary Signs on Private Property.
- a. All signs placed on private property shall have the consent of the property owner or person in control of the property, such as a tenant. The property owner or person in control of the property may remove the sign(s) without notice. For residential uses in any zone, no more than four signs visible from the public right-of-way per lot are allowed. The total size of all signs combined shall be limited to six square feet total.
 - b. Residential Zones. Maximum height of all temporary signs shall be six feet.
 - c. Nonresidential Zones. Maximum height of all temporary signs shall be six feet, except for temporary banners placed on a building.
 - A. No more than one sign visible from the public right-of-way per tenant space is allowed. The sign shall be limited to six square feet in size.
 - B. Temporary Banners on Buildings. Not more than one temporary banner per tenant space may be permitted. The maximum size for temporary banners shall be thirty-two square feet for a duration not to exceed sixty days during any consecutive three-hundred-sixty-five-day period.

F. Removal of nonconforming signs:

- 1. All existing signs within the City which are not in compliance with the requirements of this chapter upon the effective date of the ordinance codified in this title are considered to be nonconforming signs. Nonconforming signs shall be made to conform with the requirements of this section under the following circumstances:
 - a. Signs which do not conform with the requirements of this section shall be removed within sixty days of the effective date of this title or, if located within an area being annexed to the City, within sixty days of the effective date of annexation, whichever is later.
 - b. Whenever any modification is to be made to the structure, frame or support of any nonconforming sign, such nonconforming sign shall be removed or brought into conformance with this title. Adding a new sign face to a nonconforming sign which does not modify the shape, size or any structural element of a nonconforming sign shall be permitted.
 - c. Whenever the facade of a building upon which is located a nonconforming wall sign or nonconforming projecting sign is remodeled or renovated, all nonconforming wall signs located on the portion of the facade being renovated shall be brought into conformance with this chapter.

SECTION III: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrase had been declared invalid or unconstitutional.

SECTION IV: This Ordinance shall take effect upon the fifth day following the date of publication.

PASSED THIS ____ DAY OF _____, 2022, by the City Council of the City of McCleary, and signed in approval therewith this ____, day of _____, 2022.

CITY OF McCLEARY:

CHRIS SMITH, Mayor

ATTEST:

ANN-MARIE ZUNIGA, Clerk-Treasurer

APPROVED AS TO FORM:

CHRISTOPHER JOHN COKER, City Attorney