

## MEMORANDUM

DATE: October 6, 2021  
TO: City of Mercer Island City Council  
FROM: Daniel P. Kenny – Ogden Murphy Wallace  
RE: Temporary Sign Duration Options

---

At the request of the City Council, City staff revised the proposed sign code to include only those revisions necessary to comply with the *Reed v. Gilbert* case. This resulted in very few revisions to the sign code. One of those revisions is to remove the durational limit applicable to temporary signs because political signs had a different duration when compared to all other temporary signs in the right-of-way. Council specifically asked for examples of other sign codes to learn how they deal with durational limits for temporary signs.

Included below is a summary of the current code, the revised code, and then a collection of other sign code provisions from other jurisdictions.

### **Duration:**

#### ***Current Code*** (before addressing *Reed*) –

Temporary signs may be placed in the right-of-way subject to a range of general restrictions in MIMC 19.06.020(A) and (B). The only limitation on duration for these signs is found in (A)(6)(e):

*A temporary sign, other than a political sign, may only be erected for a maximum of 90 days during any 365-day period.*

This means that the current code has no durational limit for political signs. All other temporary signs in the ROW have a 90-day limit.

Other temporary signs (noncommercial and commercial) have additional limitations by zone outlined in MIMC 19.06.020(B). Relevant here now, temporary noncommercial signs are allowed in all zones subject to the conditions contained in (A). (B) does not contain any durational limits and instead points back to (A).

**Examples of other Cities Durational Limits –**

<u>City Name</u>	<u>Duration limits</u>	<u>Pros</u>	<u>Cons</u>
<p><u><a href="#">Sammamish SMC 21A.45.070</a></u></p>	<ul style="list-style-type: none"> <li>* Temporary noncommercial signs in the ROW (non-A-Frame) limited to 180 consecutive days per calendar year.</li> <li>* Temporary noncommercial signs in the ROW (A-Frame) limited to 5 consecutive days.</li> <li>* Temporary noncommercial sign on private property (all types) limited to 180 consecutive days per calendar year.</li> </ul>	<ul style="list-style-type: none"> <li>* Having some durational limit helps set expectations that most people will follow, even if it is not an enforcement tool.</li> </ul>	<ul style="list-style-type: none"> <li>* This limitation is on “consecutive days.” Someone could easily remove and replace the sign to rest this clock.</li> <li>* This type of duration is not an enforcement tool. A code enforcement officer will never be able to establish that the sign was placed in the ROW for all the 180 consecutive days.</li> </ul>
<p><u><a href="#">Kirkland KZC Chapter 100.115</a></u></p>	<ul style="list-style-type: none"> <li>* Uses a category for temporary signs called “signs displayed prior to, during and after elections.”</li> <li>* This, apparently, would cover all temporary signs displayed during those times regardless of the content. They can only be placed up to 7 days following the <u>final</u> election.</li> <li>* There is an apparent catch-all for other temp signs which covers “temporary signs in nonresidential zones” which are allowed “during the use, event or condition advertised on the sign, but not more than 60 days.”</li> <li>*Other durations exist for things like active construction signs, temporary events, rent/sale.</li> </ul>	<ul style="list-style-type: none"> <li>* No added benefit seen with either the use of the election related sign type or with a 60-day duration.</li> </ul>	<ul style="list-style-type: none"> <li>* This category is very close to “political signs.” Because there is another category for temp signs in residential zones, it would seem to imply this election related category is used as a political sign regulation.</li> <li>* Blanket removal of all temporary signs 7 days after a general election is infeasible.</li> <li>* 60 days, if that were used, is too quick. The WA case (<i>Collier</i>) specifically held that a 60-day duration before an election was unconstitutional).</li> </ul>

<p><u><a href="#">Lake Stevens</a></u> <u><a href="#">LSMC 14.68.015</a></u></p>	<p>* Temporary noncommercial signs as we've discussed them do not have a duration.</p> <p>* There are duration limits for the removal of holiday displays within 10 days following the holidays or seasons. Grand opening or permitted events on nonresidential properties, which must be removed no later than 3 days following the event. Finally, construction site identification signs must come down within 30 days after completion of the project.</p>	<p>* Having no durational limit for temp noncommercial signs in the ROW reduces administrative time and focuses enforcement efforts on attainable requirements.</p>	<p>* Does not contain a durational limit on the type of signs that are normally left out the longest, which may result in less encouragement to remove or limit use.</p>
<p><u><a href="#">Issaquah</a></u> IMC 18.11.070 <u><a href="#">(Just adopted)</a></u></p>	<p>* Most all temporary noncommercial signs have no durational limit. "Duration must be consistent with the definition of Temporary Signs as defined in section 18.11.120<sup>1</sup> and not be dilapidated or derelict."</p> <p>* Note that noncommercial banners on light poles do have a 90-day durational limit.</p>	<p>* Same as Lake Stevens Pros</p>	<p>* Same as Lake Stevens Cons</p>
<p><u><a href="#">Covington</a></u> <u><a href="#">CMC 18.55.140 - .200</a></u></p>	<p>* Temporary noncommercial signs in the ROW "shall not be limited in quantity or duration."</p> <p>* There are some durational limits on temporary commercial signs.</p>	<p>* Same as Lake Stevens Pros</p>	<p>* Same as Lake Stevens Cons</p>
<p><u><a href="#">Renton</a></u> <u><a href="#">RMC 4-4-100 - J-4</a></u>  <u><a href="#">Woodinville</a></u> <u><a href="#">WMC 21.35.130</a></u>  Bellevue</p>	<p>* None of these cities have updated their codes to account for <i>Reed</i>. This is based on observation of ordinance adoption dates and remaining political sign regulations.</p>		<p>* Not updating the sign code to account for <i>Reed</i> could expose the City to potential litigation (as applied, or on its face).</p>

<sup>1</sup> IMC 18.11.120 – Temporary Sign definition - "A Sign Structure or device used for the display of messages or images, which is easily installed and removed, and which is not intended or suitable for long-term or permanent display due to the sign construction, materials, placement, or installation."

<p><a href="#">BCC 22B.10.120</a></p> <p>Marysville  <a href="#">MMC</a>  <a href="#">22C.160.230</a></p>			
---	--	--	--

**Temporary Sign Agreements:**

<u>City Name</u>	<u>Structure</u>	<u>Pros</u>	<u>Cons</u>
<i>Monroe</i>	<p>A no-fee sign <a href="#">permit</a> shall be filed on a City form with relevant information about the sign to show full compliance with the code.</p> <p>* There is a <a href="#">90 day per year limitation</a> on stake signs.</p>	<p>* The 90 day limit puts on paper a duration that may be followed even if enforcement of that is challenging.</p> <p>* Gathering some limited information on the sign, placement, etc. will help with accountability and may help identify violations.</p>	<p>* There is an increase in staff time necessary to receive the permit and issue a sticker.</p> <p>* For this type of sign, too much process may be viewed as a deterrent to code compliance.</p>
<i>Issaquah</i>	<p>* Temporary Sign Agreement or Permit is not required for temporary noncommercial signs (flags, general ROW stake/wire signs, etc.)</p> <p>* Temporary Sign Agreement is required for certain identified temporary commercial signs (project real estate, business A-frame, outdoor vendor, commercial banner.</p> <p>*Not created and published just yet.</p>	<p>* Temporary noncommercial signs are placed quicker and more free than commercial A-frames, for example. Therefore, not requiring permits/agreements for this type of sign matches the use case.</p> <p>* A sign agreement, which merely submits information and does not require review/approval will provide the City with information about what signs are out in the ROW.</p> <p>*For some sign types, the sign agreement can be the place where the City can get indemnification.</p>	<p>* Temporary Sign Agreement is not used for the type of sign being discussed now.</p> <p>* Even if the Agreement is merely submission of information and does not require review/approval, it will still increase staff time to manage the intake of the forms.</p> <p>* Because the code already outlines the restrictions, the Agreement doesn't add enforcement opportunities.</p>
<i>Olympia</i>	<p>* A <a href="#">temporary sign agreement</a> must be submitted prior to the</p>	<p>* Using for only commercial addresses the impactful signs and</p>	<p>* This structure does not speak with the City's needs right now.</p>

	installation of most commercial temporary signs.  Does not apply to noncommercial speech signs.	does not burden the noncommercial signs.	
--	---	--	--