

CITY OF MERCER ISLAND
ORDINANCE NO. 21C-21

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, AMENDING MERCER ISLAND CITY CODE 19.06.020 TO REVISE STANDARDS AND REQUIREMENTS FOR CERTAIN TEMPORARY SIGNS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 2015, the United States Supreme Court issued a ruling (*Reed v. Town of Gilbert*) which changed the way sign codes are analyzed for First Amendment issues; and

WHEREAS, the *Reed* ruling disallows the consideration of the content of signs in regulating signage; and

WHEREAS, the Mercer Island City Code currently contains content-based signage regulations that must now be amended; and

WHEREAS, upon drafting amended signage standards responding to the *Reed* ruling, City Staff identified additional areas of the Mercer Island City Code where amendments were needed to clarify existing provisions or to resolve concerns that had arisen during processing of applications; and

WHEREAS, the Planning Commission of the City of Mercer Island held a public hearing on the suggested code amendment on June 16 and July 28, 2021; and

WHEREAS, the Planning Commission unanimously recommended that the City Council adopt the suggested code amendment as revised by the Planning Commission on July 28, 2021; and

WHEREAS, the City Council finds that a number of suggested code amendments recommended by the Planning Commission should be adopted to comply with the *Reed* ruling; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment of MICC 19.06.020, Temporary Signs. MICC 19.06.020, Temporary Signs, is hereby amended in the form provided in the attached Exhibit A, which is incorporated herein by reference.

Section 2. Severability. If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this Ordinance or its application to any other person, property, or circumstance.

Section 3. Publication and Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS
REGULAR MEETING ON _____, 2021.

CITY OF MERCER ISLAND

Benson Wong, Mayor

ATTEST:

Andrea Larson, City Clerk

APPROVED AS TO FORM

Bio Park, City Attorney

Date of publication:

Exhibit A

19.06.020 Temporary signs.

A. *General Provisions.* All temporary signs in the city are subject to the following conditions:

1. Signs may not be placed on private property without permission of the owner.
2. All signs shall be unlit.
3. Signs shall not obstruct vehicular or pedestrian traffic.
4. It is the responsibility of the person posting a temporary sign to remove it.
5. Except as specified elsewhere in this section, temporary signs shall not exceed 60 inches above the ground and shall not exceed six square feet in area; provided, signs up to 16 square feet in area may be allowed subject to the issuance of a permit from the code official; further provided, both sides of an A-frame sign shall be counted in calculating the sign's area.
6. Signs in Public Rights-of-Way. Signs may not be placed on public property except for publicly owned rights-of-way. In addition to all other applicable conditions, signs placed in rights-of-way shall be subject to the following conditions:
 - a. Signs may be placed on rights-of-way adjacent to a single-family dwelling only with permission of the adjoining property owner.
 - b. Signs shall not create a traffic safety or maintenance problem, and the city may remove and dispose of any signs that do constitute a problem.
 - c. Signs placed on public property shall be freestanding and shall not be attached to any structure or vegetation. Signs attached to utility poles, traffic signs, street signs, or trees are specifically forbidden.
 - d. Signs shall be either an A-frame design or shall be attached to a stake driven into the ground well clear of tree roots, irrigation lines and any other underground vegetation or structures that could be damaged by such a stake.
 - e. ~~A temporary sign, other than a political sign, may only be erected for a maximum of 90 days during any 365-day period.~~

B. *Temporary Signs Allowed in All Zones.*

1. *Temporary, Noncommercial Signs.* Temporary, noncommercial signs, which are signs that express non-commercial messages such as public/ community events, religious, political, ideological, or other philosophical messages, are allowed in all zones, subject to the conditions set out in subsection A of this section.

a. Except as allowed in subsection C of this section, banners, pennants, and other similar attention getting devices are not allowed; ~~provided, such signs may be allowed for community-wide civic activities subject to the issuance of a permit from the code official~~ Director.

2. *Temporary Commercial Signs.* Temporary commercial signs are not allowed outside of the TC, B and PBZ zones except for real estate signs and garage sale signs.

a. *Real Estate Signs.* Signs advertising the sale, rental, or lease of property are allowed in all zones, subject to the following conditions.

i. One real estate sign per street frontage is allowed on property being offered for sale, rent, or lease.

ii. Three real estate A-frame signs may be posted in the public right-of-way, subject to the conditions set out in subsection (A)(6) of this section, for the following purposes:

(a) Advertising a real estate open house at a single-family dwelling; provided, no more than four signs total may be posted for property being sold by the same owner;

(b) Directing the public to a multiple-family dwelling in which there is a dwelling unit available for rental or sale.

iii. Real estate sales and rental signs shall be removed within seven days after the sale or rental of the property being advertised.

iv. Real estate signs in public rights-of-way may be posted only during those hours that a real estate or rental agent is actually present at the property and shall be removed at the end of the open house or when the sales or rental office closes each day.

b. *Garage Sales.*

i. Three signs directing the public to a garage sale may be posted in a public right-of-way subject to the conditions set out in subsection (A)(6) of this section.

- ii. Garage sale signs may be posted no more than 24 hours before the beginning of the sale and shall be removed at the end of the sale.

~~3.—Political Signs. Political signs may be posted in the public right-of-way, subject to the conditions set out in subsection (A)(6) of this section.~~

C. Temporary Commercial Signs in the TC, B, and PBZ Zones. Temporary commercial signs in the form of banners, A-frame sandwich boards and streamers are allowed in the TC, B, and PBZ zones; provided, temporary signs shall not be permanently attached to any structure on the site; and further provided, the temporary signs conform to the following conditions:

1. *Banners.*

- a. Shall be no larger than 48 square feet; however, no business may display more than 10 square feet of banner per 10 feet of business facade as measured by that portion of the building facing the access street, up to a maximum of 48 square feet, but always in proportion to the business building.
- b. Shall be limited to one banner per side of the business as it faces and is accessible to the public.
- c. Shall be attached to the building housing the business.
- d. May hang for up to 30 days at one time, but no more than a total of 120 days per calendar year on a side of the business designated for display. Any side of a business must be free of any banner for a period of no less than 14 days before the next banner is hung.
- e. Shall be professionally produced by a person skilled in the art of graphic design.
- f. Shall be hung in a manner which does not obstruct traffic or a view of any other business.
- g. Shall be well maintained.

2. *A-Frames.* Each licensed business may post one A-frame sign either on property owned or controlled by the business or in the public right-of-way, subject to the conditions set out in subsection (A)(6) of this section; provided, the sign:

- a. Shall not exceed 60 inches above the ground and shall not exceed 24 square feet in area; provided, both sides of the A-frame shall be counted in calculating the sign's area.
- b. May be used on a daily basis, but only during business hours.

- c. Shall be located within 100 feet of the business displaying the sign.
- d. Shall be professionally produced by a person skilled in the art of graphic design.
- e. Shall be well maintained.

3. *Streamers, Flags, or Pennants Attached to a String or Wire.*

- a. May be used a maximum of two times per year for a maximum of seven days each time.
- b. Shall be attached to the building housing the business displaying the streamer.
- c. Shall not obstruct vehicular or pedestrian traffic or obstruct a view of any other business.
- d. Shall be well maintained.

4. *Other Temporary Signage.* Other forms of portable signs are expressly prohibited. (Ord. 08C-01 § 2; Ord. 02C-05 § 7; Ord. 02C-04 § 9; Ord. 99C-13 § 1).