

GENERAL INFORMATION

Applicant: City of Bloomington

Location: Citywide

Request: City Code Amendment adopting new sign standards, thereby amending Chapters 1, 2, 12, 14, 17, 19, 21, and Appendix A of the City Code.

HISTORY

City Council Action: 08/19/1996 – Approved major update to signage regulations (Ordinance #1996-40) (Case #10000B-96).

01/23/2023 – Study Item to discuss background and goals for the Sign Code Update project and establish preliminary policy preferences (Case #PL2022-245).

08/29/2023 – Adoption of Ordinance #2023-22, establishing policies and procedures for the installation of murals (Case #PL2023-89).

11/27/2023 – Study Item to review the initial draft of the new sign code to replace the existing signage regulations (Case #PL2023-138).

CHRONOLOGY

Planning Commission 02/01/2004 – Public Hearing held, recommended approval with three amendments (Vote: 4-0)

City Council 02/26/2024 – Public Hearing scheduled

DEADLINE FOR AGENCY ACTION

Application Date: 11/28/2023

Applicable Deadline: **Waived by the applicant**

Newspaper Notification: Confirmed (01/18/2024 Sun Current – 10-day notice)

STAFF CONTACTS

Nick Johnson, Senior Planner
Phone: (952) 563-4889
E-mail: nmjohnson@BloomingtonMN.gov

Kevin Toskey, Assistant City Attorney
Phone: (952) 563-4889
E-mail: ktoskey@BloomingtonMN.gov

PROPOSAL

Staff has prepared a full ordinance replacing the existing sign code in Chapter 19 with a new sign code in Chapter 21 of the City Code. Amendments include changes to standards and processes as well as updating numerous cross-references to the sign code and other procedural updates necessary to align with and implement the new signage regulations. The Sign Code Update is a project listed on the 2023 and 2024 Planning Commission Work Plans.

HISTORY

The City last performed a comprehensive sign code update in 1996. To complete this effort, the City assembled a “loose association” of Bloomington residents, business owners, sign users (real estate professionals), and sign installers to form the Sign Regulations Review Group. The Group worked with an interdisciplinary team of City staff to draft the current regulations. It is important to note that the legal landscape for sign regulation was quite different in 1996. Since then, a number of impactful court cases have shifted the regulatory landscape in terms of how signs can or cannot be regulated.

LEGAL CONSIDERATIONS

To ensure that the new sign code is consistent with the current legal landscape following impactful case law over the last decade, the City worked with John Baker of Greene Espel, PLLP to review the existing and new sign code. John Baker is a nationally recognized legal expert in matters pertaining to signage, expression, and land use law. Mr. Baker’s review of the new sign code was completed in December 2023. Staff has since completed updates to the new sign code to address comments and recommendations submitted by Mr. Baker to the City.

A major impetus for the sign code review and amendment project is evolving case law in the area of municipal sign regulation. Signage regulations sit at the intersection of expression, which carries First Amendment protections, and land use, which generally does not involve expression. This creates a unique regulatory environment not typically seen in land use regulation.

Based on recent United States Supreme Court and appeals court decisions, the Legal Department worked with Planning, and in consultation with John Baker, to review and amend the City's sign code with the following outcome objectives:

- 1) The sign code avoids regulating signs based on the sign's expressive content or message.
- 2) The sign code regulates signs based on property characteristics or events on properties and not based on what the signs say or express.
- 3) The sign code treats different types of noncommercial speech equitably and does not burden types of noncommercial speech over others.
- 4) The sign code does not favor commercial speech over noncommercial speech.
- 5) The sign code does not impose a "prior restraint" on expression through signage – this occurs when staff or deliberative bodies have undue discretion or must apply vague standards in permit, variance, or other approvals.

The City's Legal Department also worked with Planning to review and amend other portions of the sign code, where appropriate, in areas such as nonconformity, maintenance, variances, billboards, temporary signs, and signs exempt from the permit requirement.

ANALYSIS

The draft new sign code was presented as a Study Item at both the November 16th, 2023 Planning Commission meeting and the November 27th, 2023 City Council meeting for initial feedback (Case #PL2023-138). As part of these sessions focused on the new sign code, the staff reports and presentations provided detailed reporting on the standards, policy decisions, and procedural elements of the proposed ordinance. As staff presents the broader ordinance to the public during the subject public hearings, staff intends to summarize and emphasize significant or notable policy changes as opposed to reporting on every granular detail.

Project Goals

Throughout the Sign Code Update project, staff has established and attempted to adhere to three goals to guide the effort:

- 1) Conform with current legal standards;
- 2) Improve clarity and reduce complexity; and
- 3) Improve organization, formatting, and the user experience.

Throughout the process of making various policy choices about approaches, methods, or standards, the project goals have served as the main metrics of evaluation when considering different options. These goals also serve as the metrics by which the success of the overall new sign code can be measured.

In terms of conformance with legal standards, attention and resources, both in the form of in-house Legal staff and a consulting expert attorney, have been made available to the project to ensure that the ordinance stands on solid legal footing in light of current case law and best practices.

With respect to the clarity of the new sign code and reduction of complexity, staff can confidently report that the amount of contradictory, vague, or unnecessary standards has been significantly reduced. One of the challenges of the existing ordinance being established in 1996 and amended several times since that time is the ongoing layering of complex regulations that were sometimes drafted to resolve situational or site-specific challenges. While some special use standards and some unique provisions remain, the new sign code is an improvement from both a clarity and complexity standpoint. The overall content of the ordinance has been reduced by 55%, mostly driven by the elimination of many redundant and sometimes contradictory provisions.

Regarding organization and formatting, the structure of the ordinance was informed by both model ordinances and recently adopted codes (locally and nationally) that are positively rated or esteemed. A number of standards, both for temporary and permanent signs, have been organized into tables, making it easier for the audience to locate the necessary information by sign district or sign type. The end result of improvements to sign code structure and formatting is an improved user experience with less uncertainty fueled by vague or contradictory regulations.

Overall, staff is confident that the new sign code represents an improvement with respect to all three project goals. The project goals have been valuable throughout the process, both to answer various policy questions but also to evaluate the draft ordinance.

Overview of City Code Amendments

Due to the fact that signage, both commercial and noncommercial, is pervasive in the built environment, there is a larger number of references to signage regulations woven throughout the broader City Code. The subject ordinance includes amendments to City Code Chapters 1, 2, 12, 14, 17, 19, 21, and Appendix A. To ease the review of all these proposed changes, staff has prepared a summary table highlighting all of the changes with a brief description. The summary table, Exhibit A – Summary of Code Changes, is attached to the staff report for reference. The most significant components of the ordinance from a broad perspective are as follows:

- **Sign Variances (Chapter 2)** – Deletion of the specific findings for sign variances for the purposes of integration into the broader sign code in Chapter 21.
- **Definition Changes (Chapter 19)** – A few definitions were added or amended for consistency with the new sign code.
- **Deletion of Existing Billboard and Sign Regulations (Chapter 19)** – All of the existing provisions for Billboards (Article VI) and Signs (Article X) are proposed to be deleted in their entirety given their relocation to Chapter 21.

- **Addition of New Sign Code (Chapter 21)** – The new sign code is proposed to be established in Chapter 21, Article III, Division D (Sec. 21.304.01 – 21.304.27).

The majority of the remaining code changes are updated references to the new sign code, or procedural clarifications. For example, the new Sign Code proposed replacing the Uniform Sign Design process/approval with a new process – Comprehensive Sign Plan. Adjustments to the City Code are necessary to ensure that references point to the right locations, but also there is consistency in language for legal and procedural purposes.

Notable Policy Changes

The basic structure of the new sign code is similar to the existing signage regulations in how permanent signs are regulated based upon the application of sign districts. In both the existing and proposed signage regulations, each property is assigned to a sign district based on its base zoning designation. Base zoning designations not only inform the uses that are allowed at a given property, but also establish site design and bulk standards that translate to how the site functions and relates to the public right-of-way. As a result, grouping different zoning districts into sign districts is a rational approach to the regulation of signage, as these uses and buildings are likely to have comparable or similar needs and characteristics.

Beyond the basic structure of regulating signage via sign district, there are a number of notable policy changes in the new sign code that are a departure from the existing regulations and should be highlighted for ease of understanding:

- **Number of Sign Districts** – The existing sign ordinance has eight sign districts. The new sign code reduces the number of sign districts from eight to five. Reduction of the number of sign districts reduces complexity and unnecessary variation where similar sign standards are appropriate between zoning districts.
- **Use of Lot and Building Frontage to Determine Signage Allowances** – The existing sign code utilizes set or maximum areas for all freestanding signs and a percentage of wall elevation area to determine allowances for wall signs. Moving sign allowances to lot and building/tenant frontage is an easier method for sign area calculation, while still allowing for a range of sign areas that scale with the size of the property or building.
- **Additional Freestanding Signs in Class IV (CX-2) Sign District** – The existing allowance for the number of freestanding signs in the CX-2 zoning district (currently in the Class VI Sign District – Sec. 19.115) is one sign for the full district. This allowance has been expanded in the new sign code to allow one freestanding sign per street frontage. When the CX-2 zoning district was created, it was only applicable to the Mall of America site, whereas there are now multiple parcels in the vicinity of the Mall that have this zoning. Reexamining the allowance for freestanding signs in light of this change is reasonable in staff's judgment, particularly if the district is intended for destination recreation and entertainment development.

- **Maximum Size of Building Signs** – The new sign code establishes a maximum individual building sign size of 250 square feet in the Class III Sign District and 150 square feet in the Class V Sign District. An exception for signs on buildings seven stories or taller is included due to the unique nature of these buildings, whose signs are viewed from significant distances from ground level. The existing sign regulations do not have a maximum size for an individual wall or building sign. In staff’s judgment, not having a maximum size or area for an individual sign has in some locations and applications resulted in outcomes that exceed appropriate levels of signage. Larger signs, especially when illuminated, have the potential to create nuisance characteristics for adjacent properties. Establishing a maximum size for individual signs would mitigate that outcome. It should be noted that the maximum size of individual building signs in the Class V Sign District is proposed to be lower, 150 square feet, due to the fact that the associated zoning districts are intended to create more mixed-use and pedestrian friendly development that warrants smaller individual buildings signs. To reiterate, capping the maximum size of an individual sign does not reduce the total area of signage allowed for an individual building elevation, and there is no restriction on the number of signs on an individual building elevation in both of these sign districts (III and V).
- **Grouping of All Building Sign Allowances** – Currently, the signage regulations have specific standards for wall signs and different standards for awning and canopy signs. Separate allowances for building entrances or other unique sign types are also offered in some instances, creating unnecessary complexity. For sign districts applicable to most commercial, industrial, and mixed-use buildings, the new sign code proposes to establish an allowance for building signage on a per elevation basis. The building owner and/or tenants would then be permitted to install different types and numbers of signs as they so choose, so long as the sign areas do not exceed the total area allowance. Having separate allowances for awning signs adds unnecessary complexity.
- **Allowing Building Signs on Four Elevations** – The existing Class IV and V Sign Districts, which are applicable to most commercial and industrial properties, currently do not allow wall signs on all four elevations of a building. The new sign code proposes to expand this allowance to permit building signs on all sides of a building to allow property owners and tenants greater creative freedom to deploy signage. It should be noted that typical nuisance characteristics of building signs are mitigated in staff’s judgment by not allowing a sign within 100 feet of residential sites to be lit or luminated. In addition, signs that face residential sites that are further away than 100 feet but still visible have greater restrictions on brightness.
- **Uniformity of Building Sign Construction** – The existing sign ordinance requires that wall signs be of the same construction type (cabinet or channel letter construction style) when mounted on the same building elevation. The new sign code eliminates this requirement. Staff presented multiple reasons that informed this policy decision as part of the study sessions held in November 2023. The City Council provided affirmative direction to proceed with eliminating uniformity of construction as part of this discussion. It should be noted that uniformity of construction is one of the bigger drivers for sites to obtain approval of Uniform Sign Designs, a mandatory process that adds

complexity and procedural costs and time to the process. The staff report from the 11/27/2023 City Council meeting explained this issue in greater detail.

- **Special Use Sign Provisions** – The new sign code departs from the structure of the existing sign ordinance by removing dedicated sections to sign standards for special uses. The existing sign code has special sign standards for high usage parks, hotels, class I motor vehicle sales facilities, convenience facilities with fuel sales, office buildings with seven or more stories, and for college campuses and schools (K-12). The new sign code eliminates the dedicated sections, but does retain some of these standards therein that, in staff's judgment, continue to hold value or importance for Bloomington moving forward. Sign standards for special uses are proposed to be integrated into the draft sections dedicated to freestanding signs (see Sec. 21.304.16(f)) and building signs (see Sec. 21.304.17(e)). The large majority of the special use sign standards that are included in the new sign code are similar to the existing provisions, except:
 - **High Usage Parks** – A few parks or facilities were added to the list of high usage parks, making them eligible for slightly larger and more freestanding signs. Moir Park, the golf courses (Dwan, Hyland Green, and Minnesota Valley), and high school playfields were added to this list. Smith Park was added to the list of facilities eligible for a scoreboard sign, resolving an existing nonconformity.
 - **Playfield Entrance Sign** – A new allowance was added for freestanding playfield entrance signs at Lincoln, Jefferson, and Kennedy school fields. This sign would be permitted to be up to 200 square feet in area and a maximum of 20 feet in height.
 - **Buildings Seven Stories or Greater, Nonresidential** – This allowance replaces the wall sign allowance for office towers. The sign area allowance is not that dissimilar from the existing allowance, but it is calculated differently. This section also establishes a maximum sign area of an individual sign of 400 square feet, which can accommodate existing signs on these towers in staff's experience. The number of building signs above the second floor of the building is limited to one per building elevation, similar to the existing standards.
 - **Building Signs on Parking Structures** – Currently, the sign ordinance does allow wall signs on parking structures in a limited number of circumstances. Staff would propose to standardize the approach to signage on parking structures. If a parking structure is three stories or taller, it would be eligible for one building per elevation facing a street sign up to 150 square feet in size. This proposal standardizes the approach and establishes reasonable limits on parking structures.
- **Electronic Signs** – Standards for electronic signs have been revised as follows:
 - **Maximum Size** – The new sign code establishes a maximum size of 150 square feet for electronic signs, with an exception for the conversion of existing billboards to digital/electronic format.

- **Nighttime Standard in Proximity to Residential** – The existing signage regulations do not allow an electronic sign to be oriented towards residential uses when within 150 feet of a residentially zoned and used site. The new sign code proposes to allow electronic signs within 150 feet of residential sites but limit their operation to static use or be turned off altogether during nighttime hours (9:00 p.m. – 7:00 a.m.).
- **Dwell Time** – The new sign code establishes the following minimum required dwell times (period of static image with no changes or transitions):
 - Copy or text only, 10 words or less: Eight seconds
 - Copy with 11 words or more and/or graphics: Ten minutes

The minimum dwell time for text with ten words or less represents a continuation of the existing standard in the current signage regulations. Conversely, the dwell time for copy with more than ten words and/or graphics is proposed to be reduced from 20 minutes to 10 minutes.

- **Billboards** – Provisions related to billboards are now consolidated with the broader signage provisions in the new sign code. New billboards cannot be established under the proposed sign code, similar to existing provisions. Updates to billboard regulations include the following:
 - **Electronic Dwell Time** – If any legally nonconforming billboard were to be converted to an electronic sign/display, a minimum dwell time of ten minutes would be required for the changing of text and images. The existing regulations require a minimum dwell time of 20 minutes, regardless of content. The proposed new sign code represents a reduction in the dwell time requirement for electronic billboards.
 - **Conversion of Billboards to Electronic Display** – Nonconformity provisions in City Code make it difficult to convert existing legally nonconforming billboards to electronic display. As part of a discussion by the City Council in November, some desire to allow conversion was expressed. Under the new sign code, conversion would be allowed, but subject to the other performance standards in the billboard section (Sec. 21.304.20).
- **Sign Lighting** – The new sign code establishes a universal standard for when a sign may not be luminated when in proximity to a residentially zoned and used property. If the sign is visible and within 100 feet of a residential site, it may not be luminated. The existing sign ordinance has similar restrictions, but the required separation distance varies across the ordinance, sometimes being 50 feet and other times being 100 feet. Having situational or varied standards for when signs may be lit adds extra complexity and confuses parties utilizing the code.
- **Nonconforming Signs** – The new sign code has a dedicated section on nonconforming signs. Currently, staff apply the general nonconformity section of the Zoning Code (Sec. 21.504) to work through questions and allowances for legally nonconforming signs. Hav

ing a nonconformity section dedicated to signs is helpful since there are often nuances or issues specific to signs that can sometimes make the application or interpretation of general nonconformity rules to signs challenging.

- **Comprehensive Sign Plans** – The new sign code proposes to replace the existing Uniform Sign Design process, a mandatory approval for many property types, with a voluntary Comprehensive Sign Plan process. The Comprehensive Sign Plan approval is only eligible for multi-tenant buildings and has some similarities to Uniform Sign Designs. However, it is proposed as a discretionary or optional process, as opposed to a requirement. Property owners can have the option to pursue a Comprehensive Sign Plan if they want to allocate greater sign area allowance to one tenant space over another, require a specific type of sign construction (cabinet vs. channel letter), or specify building sign mounting locations. As proposed, Comprehensive Sign Plans may not be used to reallocate building signage from one building elevation to another or establish mandatory fonts or text sizes for building signs. Comprehensive Sign Plans have no interaction with permanent freestanding signs.

This list above is not exhaustive but represents the changes within the new sign code that staff has determined are the most impactful.

Updates to New Sign Code since November 2023

Minor adjustments have been made to the new sign code since the first draft was reviewed by Planning Commission and City Council in November of 2023. Most of these adjustments were informed by the final review of the draft code by the City's outside Legal counsel. These minor adjustments include the following:

- **Temporary Signs Format** – All of the provisions for the various types of temporary signs (Sec. 21.304.13) were reformatted into a table to improve the readability and structure of this section.
- **Temporary Sign Allowances** – Some of the sign number and area allowances were adjusted to ensure conformance with legal considerations related to the equivalency of noncommercial and commercial temporary signs.
- **Electronic Sign Dwell Time** – The previous draft sign code had two standards for dwell time based on either signs/messages with a) changeable copy (text only) or b) graphics. However, that approach did not perfectly match the City's existing standard. The current dwell time for changeable copy electronic signs is eight seconds when and if the message has ten words or less. This approach was adopted through significant research completed in 2006 (Ordinance #2006-45). As such, the minimum dwell times for electronic signs in the draft sign code have been amended to match this existing allowance. While this approach adds regulatory and enforcement complexity that can be challenging, the alternative to said approach would likely result in increased dwell times for most or all content on electronic signs. Staff has reviewed City use of electronic signs, as well as private ones, and found that most content does fit with or pass a standard of ten words or

less. This approach was crafted in recognition that the more content on an electronic sign, the greater the risk of distraction.

Other changes to the new sign code that have been completed since the study sessions in November of 2023 are more minor or modest in scope and do not necessitate additional discussion.

Supplemental Analysis

To support their further understanding of dynamics pertaining to electronic signs, the Planning Commission at their November 2023 study session requested that staff prepare a table comparing the dwell time and other standards of different jurisdictions in the region. The table has been prepared and is attached as Exhibit B. When reviewing the table, one will notice a few components:

- **Dwell Time Range** – Bloomington’s proposed dwell times are in the middle of the range of standards, the shortest being three seconds and the longest being 60 minutes.
- **Varied Dwell Time Based on Message Type** – One other element to note is that most cities do not vary their dwell time standard based on content. Bloomington’s existing and proposed standards in this regard represent a compromise of a desire to maintain a high standard of traffic safety while still allowing briefer dwell times for changeable copy messages with less text (which studies deem to be the least distracting message type).
- **Different Standards for Billboards** – Finally, some cities maintain a separate dwell time or electronic sign standard for billboards or outdoor advertising signs based on a process called an enhanced dynamic display permit. Each jurisdiction’s provisions are a little unique, but the general purpose is to provide billboard or outdoor advertisers incentives or tradeoffs, such as reducing the overall number of billboards, in order to obtain shorter dwell times for specific billboards or signs. Whether or not this approach would make sense for Bloomington, staff’s preference is to maintain the same dwell time standards for all billboards for consistency and fairness. However, one related consideration is that there are currently four billboards in Bloomington and may not be any more, according to both existing and proposed regulations. While acknowledging that point, staff maintains that traffic safety concerns are just as relevant to billboards as other electronic sign types. Staff would recommend maintaining the existing dwell time standards as currently proposed.

The regulatory landscape for electronic signs in the region includes significant variation. While some cities have greatly reduced their dwell time standards, several cities maintain standards that exceed both Bloomington’s existing and proposed standard. While there has been a significant amount of academic and other research about the topic as it pertains to traffic safety, the research has not coalesced or concluded that a specific duration strikes the ideal balance between expression and traffic safety. Rather, each jurisdiction must make an individual policy decision that reflects their desired quantity of expression (commercial and noncommercial messages) and

risk tolerance as it relates to traffic safety.

Racial Equity Impact Assessment (REIA)

Staff met with the Chief Equity Officer of the Office of Racial Equity, Inclusion, and Belonging to review the sign code update project. Following discussion, it was determined that the completion of a formal Racial Equity Impact Assessment (REIA) was not necessary for the project. However, equity considerations have informed multiple policy choices within the proposed sign code. For example, by eliminating uniformity of construction standards for wall signs on multi-tenant buildings, staff believes that a greater variety of options are available to businesses, including new or emerging businesses, that match their desired signage outcomes but could conflict with previous uniformity requirements. In addition, the removal of the mandatory Uniform Sign Design process in favor of an optional Comprehensive Sign Plan approval will lower regulatory hurdles to businesses that simply want to install signage on their individual tenant space without amending plans for the full property. These are two examples of how equity has informed certain decisions within the new sign code.

PUBLIC ENGAGEMENT

Staff has conducted multiple forms of engagement throughout the Sign Code Update project. In the earlier phase of the project, surveys were distributed to sign installers to provide feedback about Bloomington's existing regulations, as well as to share recommendations about other sign codes they've encountered that they believe are more effective. Staff surveyed 30 municipalities, 14 of which responded, to learn about specific signage questions and identify recently updated and effective ordinances in the area. These documents are available in [Case #PL2022-245](#).

The second phase of engagement has focused on direct engagement with associations and interested Bloomington stakeholders, online engagement, and follow-up meetings and communications.

Internal engagement with a wide variety of City staff from many Departments has also been consistently completed throughout the process.

Online Engagement

The City has hosted a [Let's Talk Bloomington](#) page for the project since its launch in late 2022. The project page has been utilized as a host site for interested parties to track timelines and access documents, including the draft sign code. The site offers staff contact information and also features a question tool. However, all of the engagement with the page to date has been to view information and download documents. An engagement report about this page is attached to the staff report summarizing traffic and participation on the project site.

Direct Notice Engagement

Project staff has directly engaged the following entities that were determined have a direct interest in modifications to the sign ordinance: Minneapolis Regional Chamber of Commerce, Minnesota

Shopping Center Association, Minnesota Retailers Association, the Minnesota chapter of the National Association of Industrial and Office Properties (also known as Commercial Real Estate Development Association). Multiple of these entities responded to staff on at least a limited basis, and the Minneapolis Regional Chamber published an update about Bloomington's sign code update in their monthly e-newsletter. In addition, staff engaged with multiple sign installers/companies and Bloomington property owners or their representatives who have expressed interest in the project.

Direct Meetings/Communications

To answer questions about the new sign code and dig into policy proposals in greater detail, staff has held multiple meetings with interested parties. Staff welcomes discussion and interest from parties who have questions or suggestions about the draft proposal. These face-to-face meetings have been valuable to staff as we consider how the new policy will interact with Bloomington properties in the future.

Public Correspondence

The City has received three letters of correspondence regarding the proposed sign ordinance. The correspondence is from the following parties with a general description of the content or request:

- **Walser Toyota** – The submitted comment letter seeks to expand the allowance for the maximum number of building signs permitted on an individual building elevation of a parking structure (3 stories or taller in height) from one sign to two signs, but without increasing the maximum area (150 square feet) of building sign allowed per elevation. This standard can be found in Sec. 21.304.17(e)(5) of the new sign code. **Staff Response:** *So long as the maximum sign area is not increased, staff does not find that increasing the maximum number of building signs from one to two per elevation to be detrimental to the intent of this signage allowance. Relatedly, it should be noted that signs on parking structures three stories or greater are proposed only to be allowed on street facing elevations. The draft sign code reflects the original staff proposal of one sign per elevation. If Planning Commission supports this request, they can guide staff to increase the sign number allowance to two per building elevation facing a street frontage.*
- **Clear Channel Outdoor** – The submitted letter notes that Clear Channel operates all four of the billboards in Bloomington, each of which is legally nonconforming. Clear Channel expresses a desire to convert their existing billboards to electronic displays. They request that the proposed electronic dwell time required for billboards be reduced from 10 minutes to eight seconds, noting some jurisdictions in the metropolitan area that allow this operational standard. In addition, Clear Channel requests changes to the draft sign code to enable the conversion of billboards in such a way that are not in violation of nonconformity provisions. Clear Channel also suggests new language related to billboard brightness. **Staff Response:** *Staff has amended the new sign code proposal to allow for conversion of billboards to electronic or digital display. An exception to the maximum size of electronic signs was also added for legally nonconforming billboards, thereby*

resolving that potential conflict. Regarding dwell times, staff recognizes that standards in cities vary greatly for billboard dwell times and outdoor advertising displays. Some cities have no billboards and prohibit construction of new billboards, some cities require more dwell time than Bloomington, while other cities require less dwell time. Staff does not recommend an eight second dwell time for billboards given the volume of drivers exposed to image changes, the speed those drivers are at, and the large size of billboards. Regarding sign brightness, the new sign code links to the City's lighting ordinance, which establishes maximum brightness of signs. The maximum brightness allowed matches Clear Channel's request, except limits brightness when with 500 feet of residential uses. Staff would recommend keeping the brightness language as currently drafted.

- **Kraus Anderson** – Kraus Anderson submitted a letter noting five requests or discussion points related to the new sign code as follows:
 - **Temporary Signs for Commercial Promotions** – Kraus Anderson expressed that the 120-day limit for the deployment of commercial temporary signs is not adequate for larger, multi-tenant retail properties. They request 240 days per year for larger multi-tenant sites. **Staff Response:** *After receiving the testimony, the Planning Commission recommended increasing allowances for temporary signage to allow 180 days for temporary signs for commercial promotions at sites with 30 tenants or more. If the Council wishes to further expand the allowance for commercial temporary signs beyond the amendments recommended by Planning Commission, the days allowance can be revised. However, staff would not recommend that 240 days per year be allowed due to increased occurrences of visual clutter. The reason that limits are established on temporary signs for commercial promotions is to limit the visual clutter associated with many commercial messages deployed throughout the community. Without limits, these signs can negatively impact the public right-of-way and general aesthetic environment.*
 - **Maximum Individual Building Sign Size** – In the Class III and V Sign Districts, the new sign code proposes to establish a maximum size of 250 square feet and 150 square feet respectively for individual building signs. Kraus Anderson expresses that these maximum sizes are too small for some larger tenants or buildings within these districts. They request that a maximum size of 400 square feet be established for both districts. **Staff Response:** *Staff has reviewed many building signs throughout the process of crafting the new allowances for building signs. It is true there are some existing individual signs that exceed 250 square feet in Bloomington. However, given that an unlimited number of signs on an elevation is permitted in these districts, staff finds that 250 square feet for an individual sign is adequate in most circumstances to effectively communicate a message, whether commercial or noncommercial. Few building signs in Bloomington not installed on office towers exceed 250 square feet. In staff's judgement, not establishing limits on the maximum size has caused undesirable outcomes in a couple locations. Staff would recommend maintaining maximum individual building sign sizes of 250 and 150 square feet for these districts.*

However, in the time period in between the publication of the staff report and the public hearing, staff will continue to evaluate whether any adjustments are recommended.

PD flexibility could be one mechanism to address situational requests on a site-by-site basis for larger individual building signs, but that would necessitate an amendment to the flexibility provisions of the PD Overlay District. Currently, PD flexibility for signage can only be applied for freestanding sign location, the number of freestanding signs, and the total sign area allowed on an individual building elevation. As such, the flexibility provisions would need to be amended to make the increase of an individual building sign beyond the maximum size allowed to utilize this tool. Staff can present optional code language for what this amendment(s) would look like if desired. The City also could reevaluate these maximum caps later on after initial implementation of the new sign code. Staff recommends moving forward with the individual maximum size proposed (250 and 150 square feet) and reevaluating the standard down the road.

- **Building Sign Allowance in Class V Sign District** – The new sign code proposes a building sign allowance in the Class V Sign District (HX-R, B-4, C-5, LX, and TI zoning districts) of 1.0 square feet per lineal foot of tenant space or building frontage. Kraus Anderson believes this allowance should match the Class III Sign District, which allows 1.25 square feet of sign area per lineal foot. **Staff Response:** *The reason the building sign area allowance is lower in the Class V Sign District than the Class III is that these zoning districts are intended to facilitate development of mixed-use and more pedestrian-oriented environments. As such, signage should be appropriately sized to suit or fit the development outcomes that the districts are intended to provide. The draft version of the ordinance recommended by Planning Commission maintains the standard of 1.0 feet per lineal foot of building or tenant frontage. However, staff will continue to evaluate this standard in advance of the meeting. In addition, should the sign area allowance prove upon review to be inadequate, the City could also adjust the allowance a year or so after the new code's adoption when real world data and experiences can better inform the evaluation.*
- **Maximum Monument/Pylon Sign Size** – Kraus Anderson notes that a maximum size of 100 square feet is not adequate for the Class III and V sign districts. They suggest it should be increased to 150 square feet. **Staff Response:** *It is true that the existing sign code does allow freestanding signs up to 150 square feet for multiple-tenant properties that exceed certain lot frontage distances. In an attempt to simplify the freestanding sign size allowance, staff favored a more universal cap on sign area, except for properties along I-35 W, I-494, and TH-77, which are granted both height and area bonuses. Staff reviewed a number of freestanding signs at locations that would be subject to new standards in Class III and V sign districts and found that most signs were compliant. Those that exist today that do not comply would be granted legal nonconforming status assuming they were legally established. The Planning Commission recommends that the*

maximum size for both districts remain at 100 square feet, especially the Class V sign district which is intended for mixed use development. The sizing of freestanding signs could also be reviewed following the adoption of the ordinance when more real-world examples and situations can be evaluated should the ordinance be adopted. Staff will continue to evaluate this size allowance in advance of the meeting. It should be noted that PD flexibility is not currently available as a mechanism to increase the size of freestanding signs. If adding freestanding sign size as a standard eligible for flexibility is desired, staff can present optional language to that effect.

- **Electronic Signs** – The submitted letter expresses that restrictions on electronic signs are too strict and should have greater allowances for size and dwell time. **Staff Response:** *The staff report includes analysis in other sections about electronic sign dwell times. Regarding maximum size, it should be noted that electronic signs have the potential for greater distraction than static signs. As such, establishing a maximum size helps address safety concerns. In addition, many communities have stricter standards for maximum size, or require proportionality for electronic signs so that a percentage of the sign is not electronic. In the judgment of the Planning Commission and staff, the proposed maximum size standard is not excessive.*
- **Fast Signs** – The submitted email is mostly focused on standards for electronic signs, particularly dwell times. Fast Signs advocates for a reduced dwell time for electronic graphic display signs, as well as consideration that dwell times vary within a single sign when part of the message is graphics and part simple text or copy. Relatedly, they noted concern about the text limit for electronic changeable copy signs as it relates to increased dwell time. Finally, they requested that feather flags be a permitted type of temporary sign. **Staff Response:** *A significant amount of discussion about electronic sign dwell times is provided earlier in the staff report. Specific to Fast Signs correspondence, the text limit (ten words or less) was a methodology adopted in 2006 backed by research (still applicable today) that the greater amount of copy in a message, the greater risk for distraction. Regarding the proposal to allow different dwell times within a single sign for graphics or text content, staff does not recommend pursuing such a hybrid allowance as it would not conform to how signs are legally defined within the code. Per the definitions within the sign ordinance, an electronic sign is either a changeable copy sign or a graphic display sign. It cannot be both. The dwell times are established by sign type. While staff is appreciative of the creativity of this proposal, staff does not recommend pursuing an allowance for hybrid electronic sign types. Finally, staff can share that “feather flags” would be a permitted type of temporary sign under the new sign code, as they would now be considered a type of banner.*

Staff thanks the interested parties for staying engaged in the process. During the presentation, staff will seek the Council’s guidance on these matters.

NEXT STEPS

Should the new sign code be adopted, there are multiple informational and procedural updates that must occur post-adoption. In addition, staff recommends that a formal review and report be prepared by staff to evaluate the new sign code one year after adoption.

Procedural and Informational Updates

To ensure that signs installed in Bloomington are in compliance with the sign ordinance, the City's Planning Division administers a sign permit review and approval process. As part of the drafting of the new sign code, staff has intentionally drafted the standards in such a way to minimize disruption or significant changes to the sign permit review process and associated fees. That being said, some procedural changes would need to be properly reflected in the City's permitting programs and forms. For example, the new sign code proposes the elimination of the requirement for temporary sign permits for noncommercial temporary signs (typically associated with special events). In addition, staff is proposing to rename the existing Uniform Sign Design approval to a Comprehensive Sign Plan application. These are examples where procedural updates are required to ensure consistency with the new sign code.

Similar to other common Zoning-related questions, the City hosts informational materials about the sign ordinance and associated procedures on the City website. All of these informational materials will need to be evaluated to ensure consistency with new regulations. These steps are necessary to rollout the new sign regulations in the most effective way possible. Should the new sign code be adopted, staff also plans to distribute an informational notice to all parties who have applied for a sign permit in the last 5 years to alert them to the new sign code and answer potential questions.

One-Year Review

The adoption of new approaches, methods, and standards for signage carries with it the potential for signs that were previously allowed under the existing sign code to no longer be permitted due to their size, location, or other criteria. While staff has worked diligently to minimize or reduce the potential for nonconformity of existing signs, the potential for that outcome always remains when adopting new standards, as staff does not have the capacity to review all signage installed throughout the whole community against the proposed new standards. As such, staff is recommending that a formal evaluation be performed one year after the adoption of the new ordinance to track and evaluate the implementation results.

The one-year review can provide basic reporting about the number of signs and sign permits reviewed over the course of the year, as well as highlight occurrences when the regulations were not consistent with the signage proposed or desired by a property owner, tenant, or their representative/installer. The reporting would likely be in the form of a written memorandum that can be distributed to the Planning Commission and City Council, therein staff can provide general findings about the first year of implementation and can submit any recommendations for future refinement. Given the substantial nature of the regulatory changes, the one-year review would

provide an opportunity for timely feedback and provide assurances to interested stakeholders that further refinement is possible if consistent with the City's goals and policy preferences. If the new sign code were to be adopted in February of 2024, the one-year review could be submitted in March of 2025. The Planning Commission and City Council could then determine if additional refinement to signage regulations was necessary at that time.

PLANNING COMMISSION REVIEW

The Planning Commission held a public hearing to consider the sign ordinance at their regular meeting on February 1, 2024. Two members of the public provided testimony on the proposed sign ordinance. After closing the public hearing, the Planning Commission discussed several sign standards at length. Following discussion, the Planning Commission agreed upon three amendments to the proposed sign ordinance as follows:

- **Temporary Signs for Commercial Promotions** – The Planning Commission partially supported the request of Kraus Anderson to expand the time allowance for commercial promotion temporary signs at the largest multi-tenant buildings (30 tenants or more). The time allowance was expanded from 120 to 180 days (see proposed § 21.304.13(c)(1)).
- **Parking Structure Signs** – Supporting the request submitted by Walser Toyota, the number of signs allowed on the elevation of a parking structure three stories or taller was expanded from a maximum of one building sign to two signs (see proposed § 21.304.17(e)(5)(B)).
- **Billboard Digital Conversion** – The version of the proposed ordinance presented by staff to the Planning Commission on 02/01/2024 included a new provision that would allow for the digital conversion of existing legally nonconforming billboards. Staff added this provision based on general discussion at the November City Council study session expressing some interest in exploring this option. The Planning Commission did not support this direction and amended the proposed ordinance to remove these provisions. More specifically, both an explicit provision allowing conversion of billboards (was § 21.304.20(e)) and an exception to the maximum size of electronic signs (see § 21.304.18(b)) were deleted within the ordinance to follow the Planning Commission's intent. Without these new provisions, the conversion of an existing legally nonconforming billboard to a digital or electronic face would not be permitted if the conversion included an expansion to the physical size of the billboard, including depth.

The Planning Commission unanimously recommended approval (vote: 4-0) of the sign ordinance after reaching consensus on the proposed amendments. The ordinance presented to the City Council on 2/26/24 includes these three amendments. Staff can address any questions that may arise from the amendments recommended by Planning Commission. The full detail of the Planning Commission meeting, including public testimony, discussion, and recommendations,

can be found in the attached meeting minutes.

RECOMMENDATION

Planning Commission and staff recommend approval of the sign ordinance through the following motion:

Motion made by _____, seconded by _____, I move to adopt Ordinance Number 2024-____, an ordinance establishing new standards and procedures for signs, thereby amending Chapters 1, 2, 12, 14, 17, 19, 21, and Appendix A of the City Code.

Staff recommends the adoption of a resolution of summary publication through the following motion:

Motion made by _____, seconded by _____, I move to adopt Resolution Number 2024-____, a resolution of summary publication of the sign ordinance amending Chapters 1, 2, 12, 14, 17, 19, 21, and Appendix A of the City Code.