

Brooklyn Center, MN Sign Code Revision
Working Group Discussion Points
January 30, 2020



Background

In 2015, the U.S. Supreme Court decided the case of Reed v. Town of Gilbert, 576 U.S. ____ (2015), which has far reaching implications for the legality of most local government sign regulations. The Town of Gilbert sign regulations, like those of most local governments, contained different allowances for different types of temporary signs. For example, temporary real estate (“for sale”) signs were limited to a certain number, of a certain height and size, for a certain period of time; but temporary event (“church meets here on Sundays”) signs were limited to a different number, height, size, and duration. Even though the regulations did not specify what each type of sign had to say on its face, the Supreme Court held that the fact that different rules applied to different types of temporary signs was “content-based regulation” in violation of the First Amendment. As a result, many cities around the U.S., are revising their sign regulations to bring them into compliance with the Reed holding. Because the logic behind the Reed decision would also apply to permanent signs, many cities, including Brooklyn Center, have decided to remove these types of content-based restrictions from both temporary and permanent sign regulations.

Essentially, the Reed decision requires that cities decide how many signs can be on a property without mentioning what the purpose of the sign is or the information it will convey. The number, size, heights of permitted signs, and the duration of temporary signs can vary by (1) zone district, or (2) the use of the property, or (3) the size of the property, or (4) the amount of frontage the property has – or based on any other rational factor. The sign regulations can have different allowances for different physical types of signs (e.g. wall signs, pole signs, monument signs, flags) and can regulate whether signs can be illuminated or animated in different areas of the city. However, once sign regulations establish those allowances, the city cannot regulate the content at all. While it can allow a bigger sign for a multi-tenant shopping center than for a single store, it cannot require that the sign actually list the names of the stores (or prohibit the sign from having other types of content). Similarly, while the city can limit residential properties to (for example) two small temporary signs, it cannot require that they only be real estate/for sale signs, or that they only identify the home occupation, or that they can only convey information related to an election.

Implications for Brooklyn Center’s Sign Regulations

Brooklyn Center’s current sign regulations contain many of the same features as the Town of Gilbert ordinance. In addition to differing allowances based on the function of a sign, the Brooklyn Center regulations have prohibitions on certain types of signs based on their functions. To comply with the Reed decision, the following types of regulations need to be removed:

- Prohibitions on all signs in the public right-of-way except architect, engineer, contractor, campaign, real estate, rummage sale, and opinion signs;
- Exemptions from sign permits for house identification signs, directional signs, architect/engineer/contractor signs, campaign signs, governmental flags, real estate signs, commercial sales/leasing signs, new development signs, banners without commercial messages, and rummage sale signs;
- Limits to no more than one corporate flag per establishment;
- Requirements that permitted wall or freestanding signs be identification signs; and
- Prohibitions on development complex signs containing individual tenant information.

General Approaches to Reed Compliance

Because the sign regulations cannot allow “extra” signs for a particular purpose (such as a shopping center complex identification sign or a “for lease” sign), the allowances for these specific purposes need to be included in the general allowances. Examples of this approach include:

- Avoiding mention of directional signs by allowing any number of small, short signs within the property boundary that are not oriented to be legible from a public street.
- Avoiding mention of a development complex sign by allowing one additional sign at the entryway to a commercial or industrial property.
- Allowing one or two small unlighted signs on residential properties (which could accommodate home occupation signs or apartment complex signs – without naming those types of signs), plus flags.
- Allowing a defined number of larger signs on commercial and industrial properties, plus flags.
- Allowing additional signs per frontage on any property during an election period.
- Allowing an additional sign per frontage on any property after an active building permit has been issued until a certificate of occupancy is issued.
- Allowing additional small unlighted temporary signs on residential properties, provided they are only erected for a short time (which can accommodate rummage sale and similar signs without naming those types of signs).
- Allowing additional larger temporary signs on commercial and industrial properties, provided they are only erected for a short time (which can accommodate grand opening and sale signs without naming those types of signs).

These and similar approaches have generally been followed in the draft revisions to the Brooklyn Center sign regulations.

Section 34-100. General Provisions

Section 34-110. Statement of Purpose and Findings¹

This Chapter is designed to provide regulations for the erection and maintenance of signs. The general objectives of these regulations are to enhance the health, safety, welfare and convenience of the public and to achieve the following for the City:

1. Comprehensive standards, regulations and procedures governing the erection, use or display of devices serving as visual communications;
2. Aesthetic preservation;
3. Preservation of the residential character of residential neighborhoods;
4. Preservation of order and cleanliness;
5. Avoidance of the appearance of clutter;
6. Avoidance of litter and the growth of weeds around signs;
7. Providing necessary visual communications;
8. Preservation and promotion of a pleasant physical environment;
9. Protection of public and private property;
10. Encouraging safety on the roadways by preserving sight lines and reducing distractions to motorists;
11. Reduction of administrative burdens; and
12. Compliance with all federal and state laws requiring content-neutral regulation of signs and promoting freedom of speech and expression.²

Section 34-120. Sign Permits and Fees³

1. No sign shall hereafter be erected, re-erected or altered unless a permit for each such sign has been obtained or unless permitted by Section 34-500.
2. A sign permit shall be required any time the sign area is increased and any time a static message sign is converted to an electronic message sign or vice versa.
3. Electrical permits shall be obtained for all electric signs.
4. Applications for a sign permit shall be made in writing upon forms furnished by the Building Inspector. The Building Inspector may require filing of plans or other pertinent information where, in their opinion, such information is necessary to ensure compliance with this Chapter.
5. A cash fee, as set forth by City Council resolution, shall be collected before the issuance of any sign permit when fees are required under this Chapter.

¹ Current Section 34-100.

² Added for *Reed* compliance.

³ Current Sections 34-150 and 34-151.

Section 34-130. Sign Hanger's License⁴

1. No sign shall be erected, re-erected or altered without first obtaining a license except when the owner, lessee or occupant of the property where the sign is located performs the work themselves and has obtained all required permits.
2. A cash fee, in an amount corresponding to that shown on the Sign Hangers License page of the City website, shall be collected before the issuance of all sign hanger's licenses as required under this Chapter.⁵

Section 34-140. Variances (adjustments)⁶

1. The procedure for obtaining a variance from the requirements of this Chapter are set out in Section 35-240.
2. A variance from the standards in this Chapter may be granted by the City Council after the evidence presented demonstrates that all of the following criteria are met:
 - a. The circumstances that led to a variance request were not caused by the property owner or the applicant or a predecessor in title;
 - b. Strict enforcement of this Chapter would proximately cause undue hardship because of unique and distinctive circumstances on the specific property or use under consideration;
 - c. The conditions that the application for a variance is based are unique to the parcel of land or use of the property and are not common to other property or uses within the same zoning classification;
 - d. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

Section 34-150. Nonconforming Signs⁷

1. Any legal nonconformity under a previous City Code will also be a legal nonconformity under this Code, so long as the situation that resulted in the legal nonconforming status under the previous Code continues to exist. If a legal nonconformity under the previous Code becomes conforming because of the adoption of this Code, then the situation will no longer be considered nonconforming.
2. Nonconformities will generally be permitted to continue under the provisions of this Code except any flashing portion of a sign must be discontinued within 30 days.

Section 34-160. Appeals⁸

Any person may appeal any administrative decision authorized by this Chapter in accordance with the procedures set forth in Section 35-251.

Section 34-170. Message Substitution⁹

Sign copy or messaging may be changed without additional approvals.¹⁰

⁴ Current Section 34-160.

⁵ <http://www.Cityofbrooklyncenter.org/index.aspx?NID=232>

⁶ Current Section 34-180.

⁷ Current Section 34-120.

⁸ Current Section 34-170.

⁹ Current Section 34-140.2.e.

¹⁰ This provision was moved to its own section and reworded for clarity.

Section 34-180. Enforcement and Penalties¹¹

1. It shall be the responsibility of the City Manager to ensure that this Chapter is properly enforced and administered.
2. It shall be unlawful for any person, firm or corporation to cause a violation of any of the provisions of this Chapter.
3. City officials and employees shall not be liable for the penalty provided in this Section for failure to perform a duty, unless the intention of the City Council to impose a penalty on such official or employee is specifically and clearly expressed in the Code.
4. Any act or omission that constitutes a breach of any Section of this Chapter shall, upon conviction, be punished by a fine or imprisonment not to exceed 90 days or both.
5. The fine amount is based on the Code Section that is violated. A separate fine amount is incurred for every day that the violation continues after the City gives notification of a violation and the expiration of any period of time for correction of the violation stated in the notice of violation. Repeat violations within 24 months may result in the fine amount being doubled per each violation per day.
 - a. Level 1 -- \$60.00 (waste container, setback, watering, local traffic/parking).
 - b. Level 2 -- \$125.00 (parking surface, animal, failure to register vacant, all other codes misdemeanor or petty).
 - c. Level 3 -- \$300.00 (failure to obtain permit or license).¹²

Section 34-190. Severability and Validity¹³

If any portion of this Chapter is determined to include any form of impermissible content-based regulation or is otherwise found impermissible, that provision shall be severed from the remainder of this Chapter and shall be revised to reflect the least possible change that avoids the impermissible regulation and the remainder of this Chapter shall remain in effect. It is the specific intent of the City that any unintentional impermissible content-based regulations not result in the invalidation of Chapter 34.¹⁴

Section 34-200. Applicability¹⁵

1. The provisions of this Chapter apply to all signs within City limits unless specifically exempted by this Chapter or by state or federal law.
2. Any sign required to be erected by federal, state or local law is exempted from this Chapter.
3. In the case of any inconsistency among the sign regulation in different Sections of this Code, the stricter provision shall apply.

Section 34-300. Prohibited Signs¹⁶

The following types of signs are not permitted in the City:

¹¹ Current Sections 34-190 and 34-210.

¹² <http://www.Cityofbrooklyncenter.org/DocumentCenter/View/4534>.

¹³ Current Section 34-200.

¹⁴ This section was added for *Reed* compliance.

¹⁵ This section was added for clarity.

¹⁶ Current Section 34-130.

1. Signs that, by reason of position, shape or color would interfere with the proper function of a traffic sign or signal.
2. Signs within the public right-of-way or easement except for government installed signs.¹⁷
3. Signs that resemble any official marker erected by a governmental agency or that display such words as “Stop” or “Danger.”
4. Flashing or rotating signs, including those located indoors, if they are visible from public streets.
5. Signs that obstruct any window, door, fire escape, stairway or opening intended to provide ingress or egress for any building structure, except for signs in commercial or industrial zoned properties located on the inside glass portions of windows or doors that do not cover more than 20% of any individual pane of glass.
6. Sign posters that are tacked or posted on trees, fences, utility poles or other similar supports.
7. Signs painted directly on building walls unless permitted by Section 34-800.
8. Internally illuminated cabinet signs with clear or translucent sign message surfaces.
9. Any automobile truck or other vehicle that is wrapped or coated with materials or is decorated to be used and placed on a property as a sign or any trailer whose primary use is to convey a visual message rather than to transport persons, animals or goods and is placed on a property to be used as a sign.¹⁸
10. Roof-mounted signs or signs that project above the highest point of the building.
11. The following signs are prohibited unless permitted in conjunction with an Administrative Permit under Section 35-800 or otherwise excepted from this Chapter:
 - a. Portable signs;
 - b. Banners, pennants, streamers, balloons, stringers or similar attention attracting devices;
 - c. Rotating beams, beacons or flashing illuminations or those that do not remain stationary;
 - d. Roof signs;
 - e. Temporary off-premises signs; and
 - f. Off-premises advertising signs.

Section 34-400. Standards Applicable to all Signs¹⁹

1. Location
 - a. No part of any permanent freestanding sign shall be closer than 10 feet to the side lot line.
 - b. No part of any sign shall project over or beyond the property line of the property where the sign is located.

¹⁷ Several of these exceptions listed were removed for *Reed* Compliance. Prohibition on roof signs was moved from current 34-600.

¹⁸ This provision was re-written to be more comprehensive.

¹⁹ Current Section 34-140.1.a – b and 34-140.1.d – i.

- c. Unless set back 10 or more feet from the street right-of-way line, the supporting column(s) of a freestanding sign exceeding 16 feet in area shall not materially impede vision between a height of two-and-a-half and seven-and-a-half feet above the centerline grade of the street. Freestanding signs located within the sight triangle defined in Section 35-560 shall have a minimum vertical clearance of 10 feet above the centerline grade of the intersecting streets.
 - d. Wall signs shall be of a uniform design compatible with the exterior appearance of the building.
 - e. When electrical signs are installed, their installation shall be subject to the City's electrical code.
2. Lighting
- Illuminated signs shall be illuminated by lighting internal to the sign or shall be shielded to prevent light trespass onto adjacent properties or public streets. Signs on the top of office or industrial buildings shall not be illuminated after 10 p.m. or before 6 a.m.²⁰
3. Projecting Signs
- No projecting sign shall:
- a. Project more than 96 inches out from the wall where it is attached;
 - b. Extend above the roof line;
 - c. Exceed the area of a freestanding sign that is permitted according to Table 34E.

Section 34-500. Signs that May be Erected without a Permit

No sign permitted by this Section may be erected or maintained in the public right-of-way or easement unless the sign does not exceed six square feet in area and is set back at least 10 feet from the back of the curb or improved edge of a roadway and set back at least two feet from the improved edge of a trail or sidewalk and outside of the sight triangle defined in Section 35-560.

Section 34-510. Permanent Signs²¹

The following types of permanent signs are permitted without need to first obtain a sign permit from the City:

- 1. Traffic control signs, railroad crossing signs and temporary safety or emergency signs.
- 2. Any freestanding sign that is oriented primarily for viewing by persons travelling within the lot (and not from a public street or right-of-way), that does not exceed 10 square feet in size and does not exceed four feet in height.
- 3. One sign not to exceed 10 square feet per each commercial or industrial zoned property at the point of ingress to the property that may be viewed from the public street or right-of-way.
- 4. One sign not to exceed six square feet in area on residential zoned property, with the consent of the property owner, not including illuminated signs.
- 5. Flags that are located on residential zoned property that do not exceed 20 square feet in size and are mounted on a pole that does not exceed 35 feet in height or the

²⁰This provision was modified, adding the provisions for office/industrial lighting and lighting internal to the sign.

²¹Current Section 34-140.2.a – d, 34-140.2.g – l, and 34-140.2. n-o. This section was substantially altered. The exception for governmental signs was removed because it is already exempted above; a home occupation internal cross-reference was removed; text referencing specific industries and directional signs was removed and replaced with more general language with generally the same height/size standards; text on decorative and display signs was moved to the temporary sign section below.

maximum height permitted in the zoning district where the lot is located, whichever is less.

6. Flags that are located on commercial or industrial zoned property that do not exceed 50 square feet in size and are mounted on a pole that does not exceed 50 feet in height or the maximum height permitted in the zoning district where the lot or property is located, whichever is less.

Section 34-520. Temporary Signs²²

The following types of temporary signs are permitted without need to first obtain a sign permit from the City:

1. Any sign located on residential zoned property erected for less than nine consecutive days that does not exceed two square feet in area. One additional temporary sign per frontage, not to exceed six square feet in area and three feet in height, is permitted during any time between when a building permit is issued and when a certificate of completion or certificate of occupancy is issued. One additional temporary sign per street frontage, not to exceed six square feet in area and three feet in height, is permitted during any time when all or a portion of the property is actively listed for sale or lease.
2. Any sign located on commercial or industrial zoned property erected for less than 10 consecutive days in a calendar year that does not exceed 48 square feet in area and four feet in height. One additional temporary sign per street frontage, not to exceed 48 square feet in area and eight feet in height, is permitted during any time between when a building permit is issued and when a certificate of completion or certificate of occupancy is issued. One additional temporary sign per street frontage, not to exceed 48 square feet in area and eight feet in height, is permitted during any time when all or a portion of the property is actively listed for sale or lease.
3. Site or building decorations that are intended to create a more festive appearance for a site or building, that are displayed for a period of not more than 60 consecutive days and not more than 60 days in any one year.
4. Signs or posters painted on or attached to the inside of a display window, including illuminated signs, but excluding flashing signs, so long as the signs or posters do not cover more than 20% of any individual pane of glass.²³
5. Decorative banners attached to or hung from light standards or similar structures provided they are no larger than 16 square feet in area.
6. Bench signs provided they are installed and maintained by a person, firm or corporation licensed by the City Council.
7. One sign per 0.25 acres of land may be located on the owner's property for a period of 46 days prior to an election involving candidates for a federal, state or local office that represents the district where the property is located or involves an issue on the ballot of an election within the district where the property is located per issue, and per

²² Current Section 34-140.2.j-m and Section 34-140.2.f. This section was substantially altered. All content based regulations were removed and replaced with more general language; restrictions based on specific zoning districts were categorized into three main groups with generally the same height/size standards -- for instance real estate and rummage sale specific signs are now included in signs on residentially zoned property.

²³ The 20% standard was inserted to match 34-300(5).

candidate. Where the size of the property is smaller than 0.25 acres these signs may be posted on the property for each principal building lawfully existing on the property.²⁴

8. All campaign signs must be removed within 10 days following the state general election in accordance with Minnesota Statute 211B.045.
9. All signs permitted by this Section must be constructed of durable, non-fading materials and shall be securely mounted to avoid displacement off the property by wind or weather.

Section 34-530. Dynamic Messaging Signs in the C2, I1 and I2 District²⁵

1. Dynamic Message Signs (DMS) are permitted only in the C2, I1 and I2 District without obtaining a permit except as provided in Section 34-640.
2. All DMS shall comply with the provisions in Sections 34-630 and 34-640(3).

Section 34-600. On-Premises Signs that Require a Sign Permit²⁶

Section 34-610. Residential (R1 through R7) Districts²⁷

Signs in the R1 through R7 District are permitted as follows:

Table 34A: R1 – R7 On-Premises Signs²⁸			
<i>Type of Residence</i>	<i>Number and Type of Signs Permitted</i>	<i>Maximum Size of Sign(s) Permitted</i>	<i>Exceptions (if any)</i>
In R1, R2 and R-3 District in structures where a permitted home occupation is being conducted	One freestanding or wall sign per dwelling	Two and half square feet in area and six feet in height	If located along a major thoroughfare, as defined in Section 35-900 maximum area is six square feet
Multiple family dwelling	Two wall signs per building ²⁹	6 square feet in area if located on a lot abutting an R1, R2, or R3 district, provided the sign does not face an R1, R2, or R3 lot containing	20 square feet in area if located in a zone district other than R1, R2, or R3 ³¹

²⁴ The provision allowing bigger signs closer to the date of certain elections was removed and replaced with the standards based on the acreage of the property. The frontage requirement for campaign signs was incorporated into the general provisions section.

²⁵ This section was added for clarity. The requirements for DMS are the same in all districts but DMS in public use areas require a special permit.

²⁶ The text in these sections was generally replaced with tables. The substance is the same unless otherwise noted, but the language was consolidated and simplified.

²⁷ Current Section 34-140.3.c.

²⁸ References to home occupation signs were deleted as content-based.

²⁹ Increased from 1 per building.

³¹ This provision was increased pursuant to City request to allow more signage on multifamily buildings that are not adjacent to low-density residential.

Table 34A: R1 – R7 On-Premises Signs²⁸			
<i>Type of Residence</i>	<i>Number and Type of Signs Permitted</i>	<i>Maximum Size of Sign(s) Permitted</i>	<i>Exceptions (if any)</i>
		a single or two-family dwelling ³⁰	
Multi-establishment in R3 through R7 Districts with at least 37 dwelling units ³²	Two freestanding signs or wall signs ³³	Freestanding: 25 square feet in area and 10 feet in height ³⁴ Wall: 20 square feet in area, located on ground floor facade ³⁵	If there is only one freestanding sign and no wall signs erected, then maximum area is 36 square feet

Section 34-620. Commercial (C1 and C1A) Districts³⁶

1. Wall signs and projecting signs in the C1 and C1A District are permitted as follows:

Table 34B: C1 and C1A On-Premises Signs			
<i>Type of Establishment or Enterprise</i>	<i>Number and Type of Signs Permitted</i>	<i>Maximum Size of Sign(s) Permitted</i>	<i>Exceptions (if any)</i>
Individual establishment or multistory office building ³⁷	A wall or projecting sign on each wall	10% of the aggregate area of the wall supporting the signs	None
Multi-establishment	Each establishment may have wall or projecting signs on each of	10% of the aggregate area of the wall supporting the signs	When no signs are erected on any establishment, then the aggregate of the establishments may have a wall or projecting sign on each wall identifying the tenants collectively or identifying the complex so long as the areas of each sign does not exceed

³⁰ This standard was increased. Currently, no signs are allowed on dwellings adjacent to R1, R2, or R3 Districts containing a residential dwelling.

³² This provision was increased pursuant to City request to allow more signage on multifamily buildings that are not adjacent to low-density residential.

³³ Requirement that these be identical ground signs on opposite sides of the entrance was deleted.

³⁴ The maximum area standard was increased.

³⁵ This standards was added.

³⁶ Current Section 34-140.3.b

³⁷ All references to identification signs were removed. Individual and multistory office building criteria were combined because when identification references were removed, they were the same.

Table 34B: C1 and C1A On-Premises Signs			
<i>Type of Establishment or Enterprise</i>	<i>Number and Type of Signs Permitted</i>	<i>Maximum Size of Sign(s) Permitted</i>	<i>Exceptions (if any)</i>
	its exterior walls		10% of the area of the wall supporting it

2. Freestanding signs in the C1 and C1A District are permitted as follows:

Table 34C: C1 and C1A On-Premises Signs			
<i>Type of Establishment or Enterprise</i>	<i>Number and Type of Signs Permitted</i>	<i>Maximum Size of Sign(s) Permitted</i>	<i>Exceptions (if any)</i>
Individual establishment or multistory office building ³⁸	One freestanding sign	72 square feet in area and 20 feet in height	When the building abuts two or more collector or arterial streets, one freestanding sign with a maximum area of 108 square feet may be erected along each street frontage
Multi-establishment ³⁹	In addition to freestanding signs otherwise permitted by this Chapter, one freestanding sign per street frontage	145 square feet in area and 15 feet in height	None

3. Canopy signs in the C1 and C1A District are permitted if the following conditions are met:⁴⁰

- a. The canopy structure complies with all minimum building setback standards applicable to the principal structure.
- b. The canopy structure is attached to the building wall and is deemed by the Building Official to be an integral part of the building.
- c. The primary function of the canopy is to provide an outside cover or shelter for pedestrians as opposed to automobiles.
- d. The sign does not extend or project above the top of the canopy.

³⁸ This language was revised to match the table above. The terms “individual detached” or “clustered” were replaced by “individual establishment” throughout the ordinance.

³⁹ The term “development complex” was replaced by “multi-establishment” throughout.

⁴⁰ The language was revised for clarity, the illumination standard was added.

- e. The area of the sign does not exceed 10% of the canopy face or elevation that is parallel to the wall where the canopy is attached.
- f. All lighting on the underside of the canopy shall be recessed. Under canopy lighting shall be designed to provide an average level of illumination not to exceed 20 foot-candles with a maximum foot-candle reading beneath the canopy not exceeding 30 foot-candles.
- g. The sign complies in all other respects with the provisions of this Chapter for wall signs.

Section 34-630. Commercial (C2) and Industrial (I1 and I2) Districts⁴¹

- 1. Wall and projecting signs in the C2, I1 and I2 District are permitted as follows:

Table 34D: C2, I1 and I2 On-Premises Signs			
<i>Type of Establishment or Enterprise</i>	<i>Number and Type of Signs Permitted</i>	<i>Maximum Size of Sign(s) Permitted⁴²</i>	<i>Exceptions (if any)</i>
Individual establishment	Wall signs and projecting signs on each wall	Abutting and facing freeway frontage: 15% of the aggregate area of the wall supporting the signs Other: 10% of the aggregate area of the wall supporting the signs	None
Multistory office building	Wall or projecting signs on each wall	10% of the area of the wall supporting the sign	None
Multi-establishment or enclosed shopping center	Wall signs and Projecting signs on each of its exterior walls that does not face an adjacent lot in an R1, R2, or R3 District ⁴³	Abutting and facing freeway frontage: 15% of the aggregate area of the wall supporting the signs Other: 10% of the aggregate area of the wall supporting the sign.	None ⁴⁴

- 2. Freestanding signs in the C2, I1 and I2 District
 - a. One freestanding sign is permitted, or if the establishment has two or more collector or arterial street frontages exceeding 400 feet then one freestanding sign

⁴¹ Current Sections 34-140.3.a.1-5 and 34-140.1.k.

⁴² Sign allowances for non-freeway frontage sites were revised from 15% to 10% per City request.

⁴³ Prohibition on signs facing low-density residential districts is new.

⁴⁴ An exception for identification signs was removed as content based.

on each street is permitted, provided the maximum size and height complies with the following table:

Table 34E – C2, I1 and I2 On-Premises Signs⁴⁵		
<i>Building Gross Floor Area Square Feet</i>	<i>Maximum Sign Area Square Feet⁴⁶</i>	<i>Maximum Sign Height (above 1st floor) Feet⁴⁷</i>
<i>5,000 and below</i>	Abutting and facing freeway frontage: 155 Other: 124	25
<i>5,001 – 10,000</i>	Abutting and facing freeway frontage: 180 Other: 155	26
<i>10,001 – 20,000</i>	Abutting and facing freeway frontage: 210 Other: 180	28
<i>20,001 and above</i>	Abutting and facing freeway frontage: 230 Other: 210	30

b. Outdoor sales

- i. An additional freestanding sign is permitted in an individual establishment having a gross building floor area larger than 24,000 square feet and a minimum lot area of four acres or more, when at least 50% of the land is used for outdoor sales.
- ii. The additional freestanding sign shall not exceed 125 square feet in area and 24 feet above the first floor of the building and shall be separated from the first freestanding sign by a minimum of 200 feet.
- iii. An individual establishment is not eligible for an additional freestanding sign under this Subsection if:
 1. Any nonconforming signs exist on the premises;
 2. The additional sign would be located within 150 feet of residentially zoned property; or
 3. It is located on a corner lot and qualifies for an additional freestanding sign under Section 34-630(2)(a).

c. Wall and freestanding sign tradeoff

An individual or clustered establishment may be entitled to one additional freestanding sign if the building owner or a duly authorized agent agrees in writing to forego all permitted wall signs and the additional freestanding sign complies with all applicable standards in this Chapter.⁴⁸

⁴⁵ This chart was consolidated from a more detailed list of floor area-based allowances into four square footage categories.

⁴⁶ Sign allowances for non-freeway frontage sites were reduced per City request.

⁴⁷ Many new sign ordinances have a 12 foot limit on freestanding signs to encourage monument signs rather than pole signs, and we recommend the City consider adopting that standard.

⁴⁸ Specifications about the type of required substitute freestanding sign were removed because they were overlay prescriptive.

- d. Development complex
In addition to other signs permitted by this Section, every multiple building development complex shall be entitled to one additional freestanding sign per street front not to exceed 145 square feet in area and 15 feet in height.⁴⁹
- 3. Canopy signs in the C2, I1 and I2 District
Individual and clustered establishments or enterprises and multistory office buildings may have canopy signs, to be considered a type of wall sign, if the following conditions are met:
 - a. The canopy structure complies with all minimum building setback standards applicable to the principal structure.
 - b. The canopy structure is attached to the building wall and is deemed by the Building Official to be an integral part of the building.
 - c. The primary function of the canopy is to provide an outside cover or shelter for pedestrians as opposed to automobiles.
 - d. The sign does not extend or project above the top of the canopy.
 - e. The sign is placed on the elevation of the canopy that is parallel to the wall where it is attached.
 - f. The area of the sign for individual and clustered establishments does not exceed 30% of the canopy face or elevation that is parallel to the wall where it is attached. The area of the sign for a multistory office building does not exceed 10% of the canopy face or elevation that is parallel to the wall where it is attached.
 - g. All lighting on the underside of the canopy shall be recessed. Under canopy lighting shall be designed to provide an average level of illumination not to exceed 20 foot-candles with a maximum foot-candle reading beneath the canopy not exceeding 30 foot-candles.⁵⁰
 - h. The sign in all other respects is consistent with the provisions of this Chapter for wall signs.
- 4. Gasoline service stations in the C2, I1 and I2 District
In addition to other signs permitted by this Section, gasoline service stations shall be entitled to a freestanding sign on each pump island. Sign sizes shall not exceed 20 square feet in area and 15 feet in height.⁵¹

Section 34-640. Public Uses (All Districts Where Public Uses Are Permitted)⁵²

- 1. Public use freestanding signs
One freestanding sign not to exceed 36 square feet in area and 10 feet in height is permitted in all Districts where public uses are permitted. An additional freestanding sign is permitted if the use abuts two or more streets. Properties entitled to an additional freestanding sign may erect an additional freestanding sign not to exceed 72 square feet in area and 15 feet in height.
- 2. Public use wall signs
 - a. One wall sign not to exceed 36 square feet in area is permitted.

⁴⁹ This language was edited to comply with *Reed*.

⁵⁰ This lighting standard was added.

⁵¹ The reference to “informational” signs was removed to comply with *Reed*.

⁵² Current Section 34-140.3.d and 34-140.1.l

- b. An additional wall sign not to exceed 10 square feet in area immediately above or beside each public entrance to that part of the building is permitted.
 - c. Any wall sign that does not exceed three square feet and is not intended to be legible from public streets is permitted.
3. Dynamic Messaging Signs (DMS)⁵³
- a. DMS are permitted in any District where public uses are permitted in accordance with the provisions in this Subsection. Notwithstanding Section 34-530, a special permit is required for DMS.
 - b. DMS regulations
 - i. DMS are permitted on a freestanding sign aligned perpendicular to the adjacent arterial or collector street as specified in the City's Comprehensive Plan.
 - ii. The message must remain constant for at least five seconds.
 - iii. The sign may not remain blank for longer than one second in between message changes.⁵⁴
 - iv. The area may not exceed an equivalent of 50% of each sign face area.⁵⁵
 - v. The sign shall be located no closer than 50 feet from any residential dwelling.
 - vi. Signs within 500 feet of a residential dwelling that face a residence shall display a static message between the hours of 9:00pm and 7:00am. ⁵⁶
 - vii. The sign may not flash, blink, rotate, spin, contain full motion video or create any other distraction to motorists.⁵⁷
 - viii. If the sign malfunctions, it must automatically turn black.⁵⁸
 - ix. Lighting intensity shall not exceed 5,000 nits in daytime and 500 nits at nighttime.⁵⁹
 - x. The sign must have dimming technology that automatically adjusts its brightness in direct correlation with ambient light conditions. Brightness shall not exceed 0.3 foot-candles above ambient light as measured from a preset distance depending on the sign size, as indicated in Table 34F.

⁵³ This section was re-organized and edited. Section 34-530 references these requirements but was relocated to the section above because it does not require a permit. Substantive changes are called out.

⁵⁴ This provision was added.

⁵⁵ This provision was modified to apply per sign face to prevent someone from making one entire sign face facing traffic into a DMS and keeping the other side static.

⁵⁶ This provision was added.

⁵⁷ This provision was added.

⁵⁸ This provision was added.

⁵⁹ This provision was added.

Table 34F – DMS Sign Measurement Distance for Brightness⁶⁰	
Measurement Calculation = Sign Area x 100	
<i>Area of Sign in Square Feet</i>	<i>Measurement Distance in Feet</i>
10 – 30	55
31 – 60	75
61 – 90	95
91 – 100	100

Section 34-650. Temporary Signs that Require a Permit⁶¹

Temporary freestanding signs that do not meet the standards of Section 34-520 may be approved as follows:

1. One additional temporary sign not to exceed 100 square feet in area per side or 200 square feet for a two-sided sign with a height not to exceed 12 feet is permitted during any time between when a building permit is issued and when a certificate of completion or certificate of occupancy is issued.
2. A maximum of eight off-premises signs per applicant located within two miles, measured along the shortest public street right-of-way, of a property is permitted during any time between when a building permit is issued and when a certificate of completion or certificate of occupancy is issued. Each sign may not exceed 16 square feet per side or 32 square feet for a two-sided sign with a height not to exceed 12 feet. Each sign must be a minimum of 600 feet from another temporary off-site sign.

Section 34-660. Downtown and Opportunity Sites⁶²

1. Properties that are located in the Downtown and Opportunity Sites include the following: _____.⁶³
2. Notwithstanding the provisions of this Chapter, neon signs and animated signs (excluding DMS) are permitted in the Downtown and Opportunity Sites.⁶⁴

Section 34-670. Special On-Premises Sign Program⁶⁵

1. Purpose

The special on-premises sign program allows property owners and businesses to propose creatively designed signs that:

- a. Encourage signs of high-quality materials and workmanship;

⁶⁰ This chart was consolidated from many fine-grained distinctions in size and shape into four general square footage standards to simplify compliance and administration.

⁶¹ This section was added. If the City wants, it could add a new provision “c.” allowing any temporary sign that is not permitted by 34-520 to be approved with a permit.

⁶² New section in case the City wants to allow extra signage in these areas.

⁶³ These boundaries will be added by the City.

⁶⁴ The City may want to add additional allowances for these areas.

⁶⁵ This section was added to allow more creative signage.

- b. Encourage signs of unique design that exhibit a high degree of imagination and inventiveness; and
 - c. Provide a process for the application of creatively designed signs that make a positive visual contribution to the overall image of the City, while mitigating the impacts of large or unusually designed signs.
2. Procedures
- a. The Planning Director shall review and make a decision on the application.
 - b. If the Planning Director approves the application, then a 20% increase above the total sign area on the lot otherwise permitted by this Chapter is permitted, with the additional area to be allocated as specified by the Planning Director.
3. Criteria for approval

An application for a creative sign program shall be approved if the Planning Director determines that it meets the following criteria:

- a. Architectural criteria
 - i. The sign(s) use or enhance the architectural elements of the building;
 - ii. The sign(s) are placed in a logical location in relation to the overall composition of the building facade;
 - iii. The sign(s) are integrated within and do not cover any key architectural features and details of the building facade; and
 - iv. No sign is larger than 100 square feet.
- b. Wall signs
 - i. Each wall sign is centered within an area uninterrupted by doors, windows or architectural details.
 - ii. Each wall sign is designed to be compatible with and relate to the architectural style of the main building or buildings upon the site where the sign is located.
 - iii. Each wall sign's colors are complementary to the colors of the building on or near where it is to be located.
- c. Design quality

The sign(s) as a whole:

 - i. Constitute a substantial aesthetic improvement to the site and have a positive visual impact on the surrounding area;
 - ii. Exhibit imagination, inventiveness and unique design;
 - iii. Provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale, proportion and form; and
 - iv. Contribute to the image of the City by conveying a distinctive character and convey a strong sense of place.
 - v. Do not include any illuminated box signs with clear or translucent sign message surfaces.
- d. Multiple signs

Where more than one sign is proposed, all signs have designs that incorporate the following design elements in a compatible and coordinated fashion including:

 - i. Letter style of copy;
 - ii. Components;

- iii. Type of construction materials;
- iv. Lighting; and
- v. Structural support (e.g. wall or ground base).
- e. Neighborhood impacts
 - The sign(s):
 - i. Constitute a substantial aesthetic improvement to the site and have a positive visual impact on the surrounding area;
 - ii. Provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale and proportion; and
 - iii. Do not create adverse impacts on neighboring uses.
 - f. Sign materials
 - The sign(s) maintain attractive and compatible styling so as not to conflict or distract from the architectural character of the area and the choice of materials and the workmanship in the use of the materials conveys both a sense of quality and creativity.

Section 34-700. Off-Premises Signs⁶⁶

Off-premises signs are prohibited unless located along the following highways and compliant with the following standards. Off-premises signs compliant with the following standards do not require a permit.⁶⁷

1. Highway 94 from XXXX to XXXX not to exceed 672 feet in area with a height not to exceed 30 feet with a minimum of 200 feet between each sign;
2. Highway 694 from XXXX to XXXX not to exceed 672 feet in area with a height not to exceed 30 feet with a minimum of 200 feet between each sign; and
3. Highway 100 from XXXX to XXXX not to exceed 672 feet in area with a height not to exceed 30 feet with a minimum of 200 feet between each sign.

Section 34-800. Displays on Walls or Structures that Exceed Maximum Sizes⁶⁸

Displays painted on or mounted on fabric affixed to walls or structures that exceed maximum sign area permitted by this Chapter may be approved by the City provided that the display:

1. Is a form of speech or expression protected by the First Amendment of the U.S. Constitution and/or the Minnesota Constitution;
2. Will be created, constructed, erected, or displayed in a way that is visually distinct from other permitted signs on the property;
3. If located on public property, will activate or enhance a public space or streetscape;
4. Does not exceed the dimensions of any surface upon which it is mounted;
5. Will be treated to address vandalism and exposure to sun;
6. Will not require extensive or repeated maintenance, or the applicant has provided adequate assurance (including financial assurance) that maintenance and repairs will be timely performed;
7. Does not create a threat to public health or safety or to vehicular, bicycle, or pedestrian traffic safety;

⁶⁶ This section was added, and the prohibition on off-premises signs was moved to Section 34-300.

⁶⁷ The City will add the beginning and ending points of the highway segments where these alternative standards apply.

⁶⁸ Current section 34-140.2.p Provisions related to these signs only being allowed when located and erected by the government were removed. All criteria except the residential property visibility were added.

8. Does not create noise, sound, light, reflection, glare, shading, flickering, vibration, or odor impacts on nearby properties;
9. Does not impair the performance of required city functions on or around the property.
10. Not be located on residential zoned property; and
11. Not be visible within 125 feet of the sign from a property that is zoned for residential use.

Section 34-900. Maintenance⁶⁹

All signs permitted by this Chapter must be:

1. Clearly legible;
2. Kept in good repair and free from faded or peeling paint, rust, damaged or rotted supports, framework or other material, broken or missing faces or missing letters.
3. Repaired or removed by the licensee, owner or agent of the owner of the property upon written notice from the Planning Director that the sign does not comply with the provisions of this Chapter;⁷⁰
4. Removed by the property owner when the occupant of a building or parcel ceases to use the property and abandons the site or building space. If the owner of the property fails to remove all obsolete signs within 90 days after the former occupant vacates the premises, the City shall be entitled to have such signs removed, either by its own forces or by hire of a licensed sign contractor and the cost of such removal shall be assessed against the property. The City shall notify the owner at least 30 days before the City intends to remove the sign.⁷¹

Section 34-1000. Definitions⁷²

Section 34-1010. Rules of Construction

Throughout this Chapter, words used in the present tense shall include the future. Words used in the singular shall include the plural and the plural includes the singular. The specific controls the general.⁷³

Section 34-1020. Definitions⁷⁴

The following terms have the meanings listed below when used in the context of this Chapter.

Building: Any structure erected for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind.

Business: Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

Canopy: An accessory roof-like structure either attached to or detached from a permitted building, open on all sides, other than where attached and is located over and designed to provide cover for entrances, exits, walkways and approved off-street vehicle service areas (such as gasoline stations, drive-in establishments and loading berths).

⁶⁹ Current Sections 34-211, 34-140.1.c, and 34-140.1.j.

⁷⁰ Removed "City Manager or his agent" and replaced with "Planning Director."

⁷¹ This sentence replaced text reading "The owner of the property shall receive written notice of the City's intent to remove the sign" in order to add detail about enforcement procedures.

⁷² Current Section 34.110.

⁷³ The last sentence was added.

⁷⁴ Billboard, special home occupation, rummage sale, directional sign, gross surface area of sign, identification sign, informational sign and noncommercial opinion or expression sign were removed because they were not used in this Chapter.

Development Complex: A multiple building development, such as a shopping center, a planned industrial park or office development that is controlled by a single owner or landlord.⁷⁵

Dwelling: A building, or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including one-family dwellings, two-family dwellings and multiple family dwellings; but not including hotels, motels, commercial boarding or rooming houses, tourist homes and trailers.

Dwelling Unit: A single residential accommodation that is arranged, designed used or intended for use exclusively as living quarters for one family and includes complete, permanently installed kitchen facilities. Where a private garage is structurally attached, it shall be considered as a part of the building where the dwelling unit is located.

Dwelling, One-family: A residential building containing one dwelling unit.

Dwelling, Two-family: A residential building containing two dwelling units.

Dwelling, Multiple-family (Apartment or Flat): A residential building or portion thereof containing three or more dwelling units.

Individual Establishment: A distinct business entity situated in a single building.

Multi-Establishment: A distinct business entity located in a structure attached to other similar structures by common walls and ceilings or floors, or attached by means of an enclosed arcade; or a distinct business entity contained within a single structure and not separated by walls or other physical barriers, but made distinct due to its existence as a single lease space and operation by separate entrepreneurs or by its singularity of purpose (such as clothing sales, furniture sales and so on) carried on by a single or separate proprietors.

Family: Any of the following definitions shall apply: 1) Any person or persons related by blood, marriage or adoption, together with their domestic servants or gratuitous guests, maintaining a common household in a dwelling unit; 2) Group or foster care of not more than six wards or clients by an authorized person or persons, related by blood, marriage, or adoption, together with his or their domestic servants or gratuitous guests, all maintaining a common household in a dwelling unit approved and certified by the appropriate public agency; 3) A group of not more than five persons not related by blood, marriage or adoption maintaining a common household in a dwelling unit.

Gross Floor Area: The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings. In particular, gross floor area shall include: 1) Basement space, if more than 50% of its story height is above the average level of the finished grade; 2) Elevator shafts and stairwells at each floor; 3) Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half feet, except equipment open or enclosed, located on the roof, i.e., bulk needs, water tanks and cooling towers; 4) Attic floor space where the structural headroom exceeds seven and one-half feet; 5) Interior balconies or mezzanines where the structural headroom exceeds seven and one-half feet; 6) Enclosed porches, but not terraces and breezeways; 7) Accessory uses, other than that floor space devoted exclusively to accessory off-street parking or loading.

Home Occupation: Subject to the further limitations of Section 35-405, a home occupation is any gainful occupation or profession, carried on within a dwelling unit, by a family member residing within a dwelling unit that is clearly incidental and secondary to the residential use of the dwelling unit and the lot upon which it is constructed, including, without limitation, dressmaking, secretarial

⁷⁵ This definition was changed to remove identification language and to define a “development complex” rather than a “development complex” because the latter term is no longer used in these regulations.

services, professional offices, answering services, individual music or art instruction, individual hobby crafts and day care and similar activities.

Industry: An enterprise that involves the production, assembly, processing or storage of materials, goods or products.

Lot: A lot is a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description, as on a subdivision or record of survey map, or by metes and bounds, for the purpose of sale or lease or separate use thereof.

Lot Line: A property boundary line of any lot held in single or separate ownership.

Off-Premises Advertising Sign: A sign that directs attention to a business, commodity, service or entertainment not exclusively related to the premises on which the sign is located or to which it is affixed.

Public Uses: Uses, facilities and properties owned or operated by a school district, a municipality, county, state, or other governmental units and any religious institutions such as churches, chapels, temples, synagogues and mosques.

Roof Line: That line at which an exterior wall surface of a building structure departs from a vertical plane.

Setback: The minimum horizontal distance from a building, hedge, fence, wall or structure to the street or lot line.

Sign: Any publicly displayed message-bearing device for visual communication or any attention attracting device, including any illumination device, that is used for the purpose of bringing the subject thereof to the attention of the public including, but not limited to, any mural, writing, pictorial presentation, number, illustration, illumination, placard, logo, trademark, emblem, decoration, flag, banner, pennant, symbol, valance or similar display.⁷⁶

Sign, Campaign: A temporary sign promoting the candidacy of a person running for a governmental office or promoting a position on an issue to be voted on at a governmental election.

Sign, Canopy: A roof-like cover that either projects from a building over a door, entrance or window, or a freestanding or projecting roof-like cover above an outdoor service area, such as at a gasoline service station.⁷⁷

Sign, Dynamic Message (DMS): A dynamic messages sign also known as a changeable messages sign, variable messages sign or other similar name, is an electrical or electromechanical sign on which a message may be placed that can be changed remotely or on site through hard wire or wireless communications.

Sign, Flashing: Any illuminated sign on which the artificial light or color is not maintained at a constant intensity or color when such sign is in use including signs incorporating zooming, twinkling, sparkling, fading or chasing actions. A Dynamic Message Sign or that portion of a sign providing public service information such as time, weather, date, temperature or similar information shall not be considered to be a flashing sign.

Sign, Freestanding: A sign that is not affixed to any part of any building and instead is supported by upright braces or posts placed in the ground.

Sign, Illuminated: Any sign upon which artificial light is directed or which has an interior light source.

⁷⁶ This definition was changed to add any illumination devices, placard, logo, trademark and emblem.

⁷⁷ This definition was changed to remove identification language and to a distinction between when a canopy sign is considered a wall sign vs. a roof or freestanding sign that was unnecessary.

Sign, Mural: A design or representation painted on the exterior surface of a structure that does not advertise a business, product, service or activity and may exceed the size or coverage limits applicable to that site.⁷⁸

Sign, Portable: A sign so designed as to be movable from one location to another and not permanently attached to the ground or to any immobile structure. A portable sign may consist of a mobile structure such as a semi-truck trailer or other device whose primary function during a specific time period is to serve as a sign.

Sign, Projecting: A sign that is affixed to the wall of a building and extends outward from the building wall.

Sign, Roof: A sign erected or attached in whole or in part upon the roof of a building or a non-freestanding sign that projects above the roof line of a respective building.

Sign, Rotating: A sign or portion of a sign that turns on an axis.

Sign, Structure: The supports, uprights, bracing and framework for a sign including the sign surface itself. In the case of a wall sign, the sign surface constitutes the sign structure. In the case of a sign structure consisting of two or more sides, where the interior angle formed between any of the sides exceeds 15 degrees each side shall be considered a separate sign structure.

Sign, Temporary: Any sign or other advertising device or display constructed of fabric, canvas, cardboard, wall board, plywood, or other light temporary material, with or without structural frame, intended for a temporary display for a limited period of time. Examples of temporary signs include real estate "for sale," "for rent", and "open house" signs, garage sale signs, signs identifying the architect, engineer or contractor for work currently under construction, signs advertising a temporary event or commercial opportunity and signs that express noncommercial messages.⁷⁹

Sign, Wall: A sign that is affixed upon and parallel to the wall of a building.

Street Line: The common boundary line of a street right-of-way and abutting property.

Wall Supporting the Sign: The aggregate surface area of the wall where the sign is mounted, measured from the ground floor grade to the top floor grade, but not including wall area occupied by windows or doors.

Use: The purpose or activity for which the land or building is designated, arranged or intended, or for which it is occupied or maintained.

⁷⁸ This definition was added.

⁷⁹ This definition was changed to be more comprehensive.