

ORDINANCE NO. 2009-_____

AN ORDINANCE MODIFYING BILLBOARD STANDARDS AND BILLBOARD USE STATUS, THEREBY AMENDING CHAPTER 19 OF THE CITY CODE

The City Council of the City of Bloomington hereby ordains:

Section 1. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 19

ZONING

ARTICLE III. ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

Section 19.33. INDUSTRIAL (I-1, I-2, AND I-3) DISTRICTS.

(e) **Interim Uses -**

- (4) Reserved. [~~Billboards in existence in the General Industrial (I-3) District prior to June 1, 1994, subject to the requirements of Section 19.66(b) of this Code.~~]

Section 19.34. FREEWAY DEVELOPMENT (FD-1 AND FD-2) DISTRICTS

(e) **Interim Uses -**

- (5) Reserved. [~~Billboards in existence in the Freeway Development (FD-2) District prior to June 1, 1994, subject to the requirements of Section 19.66(b) of this Code.~~]

ARTICLE III. A. ADDITIONAL ZONING DISTRICTS

Section 19.40.07. COMMERCIAL SERVICE DISTRICTS CS-0.5 AND CS-1.

(e) **Interim Uses.**

- (5) Reserved. [~~Billboards in existence in the Commercial service (CS-0.5) District prior to June 1, 1994, subject to the requirements of Section 19.66(b) of this Code.~~]

ARTICLE VI. BILLBOARDS

Section 19.66. BILLBOARDS.

(a) **Purpose, Intent and Findings**

Billboards are prohibited in all districts and any billboards legally in existence on August 6, 2009, shall have the status of a non-conforming use under Minnesota Statutes Section 462.357, subsection 1e, as that law may be amended from time to time. With respect to these non-conforming billboards, the standards of this Article and state law apply. The City Council finds it necessary for the promotion and preservation of the public health, safety, welfare and aesthetics of the community that the construction, location, size, conspicuity, brightness, legibility, operational characteristics and maintenance of billboards be controlled. Billboards have a direct and substantial impact on traffic safety, pedestrian safety, community aesthetics and property values. The City Council recognizes that a great percentage of billboards that are blighted, unattractive, or provide an unsafe distraction to motorists can be corrected by sensible quality control through adequate maintenance, inspection and operational guidelines. With respect to electronic billboards, the City Council finds that they are highly visible from long distances and at very wide viewing angles both day and night and are designed to catch the eye of persons in their vicinity and hold it for extended periods of time. If left uncontrolled, electronic billboards constitute a serious traffic safety threat. Studies conducted by the Federal Highway Administration (FHWA), *Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction*, Sept. 11, 2001 and *The Role of Driver Inattention in Crashes: New Statistics from 1995*; the University of North Carolina Highway Safety Research Center, *Distractions in Everyday Driving*, May 2003 and *The Role of Driver Distraction in Traffic Crashes*, May 2001; the Wisconsin Department of Transportation, *Synthesis Report of Electronic Billboards and Highway Safety*, June 10, 2003; the Municipal Research and Services Center of Washington, *Sign Control Provisions*, Jan. 2006; and the Veridan Group, *Video Signs in Seattle*, Gerald Wachtel, May 2001, reveal that electronic signs, including billboards, are highly distracting to drivers and that driver distraction continues to be a significant underlying cause of traffic accidents. The City Council intends by this Section of the City Code to establish a legal framework for billboard regulation in the City. The regulations promulgated in this Article are intended to facilitate an easy and agreeable communication between people while protecting and promoting the public health, safety, welfare and aesthetics of the community. It is not the purpose or intent of this Section of the City Code to prefer or favor commercial messages or speech over non-commercial messages or speech or to discriminate between types of

non-commercial speech or the viewpoints represented therein. The owner of any billboard which is otherwise allowed by this Section of City Code may substitute non-commercial copy or message in lieu of any other commercial or non-commercial sign copy or message without any additional approval or permitting subject to the operational standards set forth herein. The purpose of this provision is to prevent any inadvertent favoring of commercial speech or message over non-commercial speech or message. This provision prevails over any more specific provision to the contrary. The purposes of the regulations promulgated in this Section include:

- (1) To eliminate potential hazards to motorists and pedestrians using public streets, sidewalks, and rights-of-way;
- (2) To safeguard and enhance property values;
- (3) To control nuisances;
- (4) To protect government investments in public buildings, streets, sidewalks, traffic control and utility devices, parks, and open spaces;
- (5) To preserve and improve the appearance of the city through adherence to aesthetic principles, in order to create a community that is attractive to residents and to non-residents who come to live, visit, work, or trade;
- (6) To eliminate excessive and confusing sign displays;
- (7) To implement the City's Comprehensive Plan;
- (8) To encourage signs which by their design are integrated with and harmonious to the surrounding environment and the buildings and sites they occupy;
- (9) To promote the public health, safety, and general welfare; and
- (10) To provide for fair and consistent enforcement of the regulations set forth herein.

(b) **Non-conforming Billboards in Existence on August 6, 2009, in All Districts [the General Industrial, (I-3) Freeway Development (FD-2) and Commercial Service (CS-0.5 and CS-1) Districts -]**

- (1) A billboard is defined as any advertising sign which has an area exceeding 150 square feet;
- (2) Billboards must be erected on single poles ~~[and contain cedar trim]~~ and must be maintained in a structurally sound condition free from decay and warping, cracked and peeling paint or sign copy, and rusting or deteriorating materials;
- (3) No animation is permitted on billboards;
- (4) Billboards must be landscaped around the base of the signs and the grounds immediately adjacent to the billboard so that all soils are stabilized with established plant or xeriscaping materials and those plant materials must be kept mowed and otherwise appropriately maintained, except where impervious surface exists in that area;
- (5) Billboards must be located so as not to obstruct any existing business or sign;
- (6) A billboard need not be a principal use ~~[in the General Industrial (I-3) and Freeway Development (FD-2) Districts];~~
- (7) A sign permit, in addition to any other necessary permit, must be obtained by the property owner from the Issuing Authority whenever the cost of any billboard repair, restoration, improvement, maintenance or replacement exceeds 50 percent of its

market value as indicated in the records of the City assessor immediately prior to the time of repair, maintenance, replacement, restoration or improvement work. [No person shall construct, erect, use or permit the use of a billboard unless and until a sign permit is first secured from the Issuing Authority];

- (8) The application for a permit under subsection (7) hereof [the interim use permit] must be signed by the owner of the property and show the proposed location, height, dimensions, location, materials, design and manner of construction of the proposed repair, maintenance, replacement, restoration or improvement, [of other structures within 300 feet] and the landscaping in the area of the proposed billboard;
- (9) No [interim use permit shall be granted for any proposed] billboard may be enlarged, expanded, intensified to any extent, and those terms mean any increase in a dimension, size, area, volume or height, any increase in the area of use, any placement of a structure or sign face or part thereof where none existed before, any addition of a site feature such as a walkway, louvers or other mechanical equipment, or any increase in intensity of use based on a review of the original nature, function or purpose of the billboard except in strict compliance with the requirements of this Article and Section 21.504(c)(2) of the City Code; [if it is within 2,000 feet of any existing billboard within the City];
- (10) A sign permit under subsection (7) hereof shall be granted by the Issuing Authority upon proper application by the property owner if the plans set forth therein do not include any unpermitted enlargement of the billboard and are in compliance with the standards set forth in this Section.
- ~~[(10) The interim use permit may be revoked by the City Council if the billboard or the area where the billboard is erected is not maintained in accordance with the terms of the permit or this Code;~~
- ~~-(11) All other standards including setbacks that are applicable to other signs and structures shall apply to billboards. There shall be a maximum setback of 350 feet from the centerline of the right of way of an adjacent Federal Aid Interstate Highway;~~
- ~~-(12) No interim use permit shall be granted for more than five years.~~
- 13)(11) No billboard structure may contain more than two signs per facing;
- ~~[(14) Billboards are not permitted within 500 feet of residential properties or conservation (SC) zoning districts;~~
- ~~-(15) If a variance is required, it must be obtained before an interim use permit may be granted;~~
- ~~-(16)](12) The maximum height of any portion of the sign, including sign face and trim and extensions, must not exceed 40 feet above grade;~~
- [(17)](13) The maximum length of any sign, including trim and extensions, must not exceed 50 feet;
- [(18)](14) No billboard shall be erected on or above the roof of any building;
- [(19)](15) No billboard or portion thereof may turn on an axis, rotate, revolve or otherwise physically move;
- (16) The maximum depth of each sign face must be measured from the outside, back to front, of each display panel surface and must not exceed two feet;

(17) The copy area for each sign face must be limited to the basic 14-foot by 48-foot panel with no copy, projection or extension to the top, sides, or bottom of either panel unless an extension was previously approved for that billboard on or before August 6, 2009;

~~[(20)]~~(18) Electronic display techniques include any portion of a billboard that contains alphanumeric characters, graphics or symbols defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination device within the display area, including computer programmable, microprocessor controlled electronic displays and projected images or messages with these characteristics onto the sign face; and

~~[(24)]~~(19) Any billboard utilizing electronic display techniques in whole or in part must meet the following operational standards:

- (A) Duration. In all districts the full billboard image or any portion thereof must have a minimum duration of 20 minutes and must be a static display. No portion of the image may flash, scroll, twirl, change color, in any manner imitate movement, or meet the characteristics of a flashing sign as defined in Section 19.104;
- (B) Transition. In all districts where the full billboard image or any portion thereof changes, the change sequence must be accomplished by means of instantaneous re-pixelization;
- (C) Brightness. The sign must not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness;
- (D) Dimmer control. Electronic graphic display signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one half-hour before sunset and one half-hour after sunrise;
- (E) Audio or pyrotechnics. Audio speakers or any form of pyrotechnics as defined in Section 19.104 are prohibited in association with a billboard;
- (F) Fluctuating or Flashing Illumination. No portion of any billboard may fluctuate in light intensity or use intermittent, strobe or moving light or light that changes in intensity in sudden transitory bursts, streams, zooms, twinkles, sparkles or in any manner creates the illusion of movement; and
- (G) Video display. No portion of any billboard may change its message or background in a manner or by a method of display characterized by motion or pictorial imagery, or depicts action or a special effect to imitate movement, or the presentation of pictorials or graphics displayed in a progression of frames that give the illusion of motion or the illusion of moving objects, moving patterns or bands of light or expanding or contracting shapes.

Passed and adopted this _____ day of _____, 2009.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney