City of North St. Paul
Planning Commission
Regular Meeting Agenda

August 5, 2021
6:30 PM

The Planning Commission Meeting will be conducted on   at 6:30 p.m. The meeting location is the City Council Chambers of City Hall, located at 2400 Margaret St., North St. Paul.

The Planning Commission will also be meeting by interactive TV under Minn. Stat. 13D.02. Members of the public are permitted to attend the meeting in person, however, it is encouraged to participate in the meeting remotely. Instructions can be found below.

The **Zoom meeting can be accessed via:** https://tinyurl.com/NSPplanning
(**from a PC, Mac, tablet, iPhone or Android device)**
Meeting ID: 821 4097 2224
Password: 362656
or by phone at 1-929-205-6099, **meeting ID 821 4097 2224, password 362656.**

You can also watch the meeting on our YouTube channel here
tinyurl.com/NSPYouTube

The Planning Commission Zoom meeting will be 'open to the public' to listen in, but will be muted from contributing at all times with the exception of a Public Hearing and open to the public forum.

Please join the meeting early to test your audio and video settings. If you join via a device and your audio is not working, you may need to use the dial-in phone number option in order to be heard.

I. Call to Order

II. Roll Call

COMMISSION
Elaine Barton, Commission Chair
Patrick Blees, Commissioner
Erik Brenna, Commissioner
Rick Gelbmann, Commissioner
John Monge, Commission Vice-Chair
Lisa Wong, Commission City Council Liaison
Andrew Wise, Commissioner Allan Worm, Commissioner

STAFF
Eric Zweber, Planning Consultant
Lisa Ritchie, Planning Secretary

III. Adopt Agenda

IV. Approval of Minutes

A. Planning Commission Meeting Minutes from June 3, 2021

B. Approval of July 15, 2021 Joint EDA/Planning meeting

V. Meeting Open to Public

Note: This is a courtesy extended to persons wishing to address the council who are not on the agenda. A completed public comment form should be presented to the Deputy Clerk prior to the meeting; presentations will be limited to 3 minutes. This session will be limited to 15 minutes.

VI. Public Hearings

VII. Commission Business, Action Items & Recommendations

A. Task Force for the Update of the 2013 Redevelopment Master Plan

B. Review the Need for Sign Code Amendments

C. Review of the Comprehensive Plan Residential Densities

VIII. Old Business

IX. Reports from Staff

X. Reports from Council Liaison

XI. Reports from Commissioners

XII. Adjournment

The next regularly scheduled Planning Commission meeting is Thursday, September 2, 2021

CITY OF NORTH ST. PAUL
PLANNING COMMISSION
REGULAR MEETING MINUTES
THURSDAY, JUNE 3, 2021
6:30 P.M.

North St. Paul City Hall – Council Chambers
2400 Margaret Street

I. CALL TO ORDER

Chair Barton called the meeting to order at 6:30 p.m. The meeting was conducted via Zoom.

II. ROLL CALL

COMMISSION
Elaine Barton, Commission Chair
Patrick Blees, Commissioner
Erik Brenna, Commissioner
Rick Gelbmann, Commissioner
John Monge, Commission Vice Chair
Lisa Wong, Commission City Council Liaison
Andrew Wise, Commissioner **EXCUSED ABSENT**
Allan Worm, Commissioner

STAFF
Eric Zweber, Planning Consultant
Planning Secretary, Lisa Ritchie

III. ADOPT AGENDA

Motion to adopt agenda by Commissioner Gelbmann, and seconded by Commissioner Blees, with all present voting aye (6-0). Motion carried to adopt the June 3, 2021 Agenda.

IV. APPROVAL OF MINUTES

Motion to approve Minutes by Commissioner Brenna, and seconded by Commissioner Gelbmann, with all present voting aye (6-0). Motion carried to approve the May 20, 2021 special meeting minutes as submitted.

V. MEETING OPEN TO THE PUBLIC

There were no comments.

VI. PUBLIC HEARINGS
-None.

VII. COMMISSION BUSINESS ACTION ITEMS & RECOMMENDATIONS

-None.

VIII. OLD BUSINESS

A. Outdoor Storage Conditional Use Permit to Allow T.A. Schifsky & Sons, Inc. to Install Three (3) New Silos and a Scale

City Planner Eric Zweber reviewed a request for Conditional Use Permit for outdoor storage to include the addition of three 55-foot silos, a scale, and associated equipment at an existing business, T.A. Schifsky & Sons, in the MU-3 district. He added the applicant is a legal non-conforming use.

Mr. Zweber stated the Planning Commission reviewed this request at their last meeting and discussed potential ways to mitigate the visual impacts of the silos by improvements on the site including additional screening. A condition of the CUP in City Code is that outdoor storage shall be completely screened from adjacent streets, sidewalks, public walkways or public parks, with a wall, solid fencing, evergreen hedge or equivalent material.

Mr. Zweber stated the request meets all standards of the MU-3 zoning district. The applicant previously proposed a 16-foot solid concrete wall, but City Code requires that fencing does not exceed 6 feet in height. He added the applicant is now proposing a 6-foot chain link fence with plastic slats along the south half of the site, running 175 feet along 3rd Street N.

Mr. Zweber stated City Staff has some questions regarding whether the proposed chain link fence meets Code requirements: provide good aesthetics and functionality; completely screened; and use of only decorative fencing material. He added the most restrictive Code requirement will apply when there is a conflict.

Mr. Zweber stated the applicant has provided additional landscaping to be planted outside the proposed fence, including 8 white pine; 6 Black Hills spruce; 4 scarlet letter columnar oak; and 2 common hackberry. He added the proposed plantings exceed requirements for landscaping of 1 tree per 50 linear feet.

Mr. Zweber stated no additional parking is proposed, and no modifications to access and circulation. The applicant is proposing to modify the south site entrance to align with Anchor Drive, with the addition of 16 shrubs and perennial grasses at the entrance. Improvements at the site entrance will be required to minimize the tracking of sediment. No changes are proposed to drainage or lighting plans.

Mr. Zweber stated City Staff recommend that the Planning Commission recommend City Council approval of the Conditional Use Permit with 4 conditions as listed in the Staff Report.

Commissioner Monge requested clarification regarding the size of the proposed trees. Mr. Zweber stated the tree sizes are listed on page 21 of the meeting packet, and exceed the minimum size required in the City Code.

Commissioner Blees asked whether there is an easement around the perimeter of the property.

Mr. Zweber stated City Staff have not been able to find an easement, as this is unplanned property. He added the Electric Department does not have any record of easements.

Commissioner Blees requested clarification regarding a dashed line on the site plan that runs along 3rd Avenue, centered on the existing trees. He added the legend says that it is an edging.

Mr. Zweber stated that may be a line on the document used to center the vegetation, which was not removed before printing.

Commissioner Brenna asked whether there is any guidance regarding how restrictive screening can be.

Mr. Zweber stated screening cannot exceed 6 feet in height. He added the previously proposed 16-foot wall would have provided adequate screening, but a variance would be required.

Commissioner Worm asked why the silos are called “storage units”. Mr. Zweber stated the definition of outdoor storage includes equipment that is located inside a building.

Commissioner Worm stated there are piles of stone on the site, but they are not considered equipment. Mr. Zweber that is an existing use, and legal non-conforming uses are not being addressed under this request. He added, however, Commissioner Worm is correct.

City Council Liaison Wong asked whether there are any environmental health concerns since there are residential areas nearby.

Mr. Zweber stated compliance with Minnesota Pollution Control Agency (PCA) regulations is a condition in the permit. He added the business operations are a legal non-conforming use and no local regulations can be imposed.

Chair Barton asked whether there is other new proposed equipment besides the silo and associated equipment. Mr. Zweber stated page 20 of the Staff Report, under “Key Note Legend”, provides a list of proposed equipment shows their location on the site. He added existing equipment will be replaced and updated.

Chair Barton requested clarification regarding existing equipment. Mr. Zweber stated most of the equipment already exists on the site. He added the new storage tanks and three new silos are additional pieces that do not exist on the site today.

Chair Barton requested clarification regarding the term “associated equipment” which is generic and could mean almost anything, from a conditional use standpoint.

Mr. Zweber stated, regarding the type of proposed fence, decorative wrought iron would not provide the necessary screening. He added other types of fences or walls would provide a better aesthetic and screening.

Commissioner Gelbmann stated a reasonable and practical compromise for the fence moving forward is a requirement of 6 feet in height of solid fencing. He added a chain link fence would deteriorate quickly and wrought iron does not provide enough screening. He noted he was surprised that the 16-foot fence proposal was removed.

Commissioner Monge stated he agrees that he was disappointed when they took 16 feet in height is no longer being considered. He added a 6-foot fence could be a combination of fence and wall, with some variation, but a 6-foot-high wall might not be any different than a fence.

Commissioner Gelbmann stated the site plan shows the fence 10 feet from the property line, with room for trees. He added the proposal states that the fence is 5 feet from the property line.

Mr. Zweber stated, under Item H, Key Note Legend, the proposal is that the existing fence will be replaced or salvaged and a 6-foot chain link fence with plastic slats installed 5 feet from the property line. He added 10 feet is more than enough room for landscaping. He noted a condition could be added that the fence shall be 10 feet from the property line. Commissioner Blees agreed.

Mr. Zweber stated, with regard to the variance, the Commission could request that a fence taller than 6 feet is desired, or should be considered, to meet the objectives of the City Code. He added the submittal must meet the requirements of the expansion of a non-conforming use within the MU-3 District.

Mr. Zweber stated a condition could be added to the CUP related to any impacts caused by the request, and screening is the best way to mitigate that impact. He added the Commission can impose a condition that provides better aesthetics.

Commissioner Brenna stated he supports something a little more robust and visual in terms of a fence with slats.

Commissioner Blees stated scrub trees and bushes along the perimeter makes the site look less well-kept. He added he supports the addition of more trees, but part of the landscaping equation would be for them to remove some of the scrub trees to make the landscaping more intentional.

Commissioner Blees stated there are many trees currently on site that are 16-20 feet tall, that could be part of a landscaped area along the perimeter if they were to be managed.

Mr. Zweber stated a condition could be added that a professional arborist or forester shall evaluate existing vegetation and modify as recommended for healthy and full plants.

Commissioner Blees requested the addition of a condition that "existing overstory trees shall be retained to provide suitable screening".

Commissioner Worm stated he likes the 16-foot fence at the City's Public Works property.

Chair Barton expressed concern that big walls are a magnet for graffiti. She added the wall could eventually be used for an art mural. She noted she supports the proposed 6-foot fence, but it needs to be as solid as possible.

Commissioner Blees showed a depiction of a chain link fence with vertical slats that are varying degrees of opacity. He added that type of fence looks less institutional and could be a suitable solution.

Mr. Zweber stated, if the Commission agrees, a requirement could be added that the applicant shall periodically inspect the fence and repair as needed on an annual basis. He added he would discourage a recommendation that requires a variance, as that would exceed Code requirements, but it would be appropriate to provide direction.

City Council Liaison Wong submitted a message via chat function suggesting a decorative rock fence.

Commissioner Gelbmann asked whether the existing trees would survive a fence replacement or upgrade. Mr. Zweber stated the applicant has proposed "saving existing trees". He added it should be possible to install a fence inside the property. He noted the applicant will remove or salvage the existing fence.

Commissioner Monge stated the fence requirement should state "remove and replace".

Mr. Zweber reviewed the following modifications that are not required in the existing Code: the new fence shall be 10 feet from the property line; the existing fence shall be replaced; a certified arborist shall evaluate existing vegetation and provide recommendations; and a black chain link fence with black vinyl slatting shall be inspected at least every 5 years and repaired as necessary.

Commissioner Monge asked whether the fence could be inspected annually. Mr. Zweber agreed.

Commissioner Worm asked what makes the Commissioners experts on fencing.

Mr. Zweber stated the applicant has told the City what type of fencing they would like to install. He added the Commission can determine whether to recommend it or not.

City Council Liaison Wong asked whether increasing tree coverage could have an effect on visibility. Chair Barton stated the applicant is already exceeding the standard, and she would be hesitant to require more than that.

Commissioner Blees stated many existing trees that are of value can be saved, which would provide a taller screening than the initial planting of new trees.

Commissioner Gelbmann stated a condition could be added that the applicant will work with the City to develop a plan for murals or artwork on the silos. Chair Barton agreed.

Chair Barton stated the conditions should clarify that the fence must be 6 feet in height. Mr. Zweber stated the applicant is proposing 6 feet in height, but that can be added to the conditions.

Chair Barton requested that a recommendation of approval should stipulate that the Conditional Use Permit runs with the property, regardless of who owns it.

Mr. Zweber reviewed the following changes: remove “amendment” and add “for outdoor storage” and add “vehicle” before “scale”. Chair Barton confirmed these amendments.

Motion by Commissioner Gelbmann, and seconded by Commissioner Monge, with all present voting aye (6-0). Motion carried to recommend conditional City Council approval of a Conditional Use Permit for three (3) silos and related equipment at T.A. Schifky & Sons, with conditions as listed in the staff report and 5 additional conditions.

IX. REPORTS FROM STAFF

A. July 1, 2021 Planning Commission Meeting

Mr. Zweber stated there are no new issues for the July 1, 2021 agenda, with the possible exception of the Schifsky’s proposal. He added City Staff recommends cancellation of the July 1, 2021 meeting, and holding a special meeting if necessary. He noted there will be some direction soon about moving the Commission meetings back into Council Chambers, and Commissioners should notify City Staff with any concerns they may have related to this development.

Commissioner Gelbmann stated the Planning Commission/Economic Development Authority joint meeting is scheduled for July 15, 2021.

Mr. Zweber stated he spoke with the City Manager about the potential cost of completing Zoning Code amendments. He added this would include the sign Ordinance, short-term rentals and community gardens or urban agriculture.

Mr. Zweber stated, at its June 1, 2021 meeting, the City Council approved the shoreland variance for a screened-in porch, but they tabled the Bradley Plumbing Interim Use Permit to an upcoming workshop.

Chair Barton requested an agenda for the joint meeting on July 15, 2021, to include a review of Code parking requirements.

Mr. Zweber stated he will discuss this issue with the City Manager, and Chair Barton can review potential agenda items with the EDA Chair.

X. REPORTS FROM COUNCIL LIAISON

City Council Liaison Wong thanked the Commission for their recent hard work and recommendations on a variance, Zoning text amendments and a proposed Interim Use Permit. She added there have been no changes or updates to the Highway 36/Highway 120 project.

XI. REPORTS FROM COMMISSIONERS

Commissioner Brenna stated he serves on the Minnesota Water Resources Conference organizing committee. He added the virtual conference is scheduled to be held October 19-20, 2021. He noted the conference sponsored by the University of Minnesota, will address issues related to water quality, research and implementation.

Commissioner Worm made a soft-spoken comment that was later translated by his wife, Norma (via email on 6/10.21). She indicated he was announcing the toy shelf is open again after a year of being closed due to COVID19. They are open every Tuesday and Thursday from 10:30 a.m. – 12:30 p.m. for anyone in need. The Toy Shelf will be 16 years old on July 5th but no celebration is planned.

Chair Barton stated she saw the City Council's discussion regarding Zoning text amendments at their recent meeting. She added a Council Member commented on driveway parking within 10 feet of the curb. She noted that the discussion reflects common misunderstandings about City Code and how they are written.

Chair Barton stated the lowering of the lot area in the R-1 District was related to the addition of townhomes and duplexes but was not related to single family homes. She added that might be an error in the table.

Mr. Zweber stated he would look into it. He added the width was reduced from 60 feet to 50 feet to reduce the lot area. He noted he understands her comment and agreed to look into whether it was an error or not.

Chair Barton stated 7,920 square feet reflects the maximum in the R-1 district. She added R-2 density increased in the 2040 Comprehensive Plan, but not in the R-1 District. She stressed the importance of being consistent with the Comprehensive Plan in the R-1 District.

Ms. Ritchie stated City Staff anticipates that CivicClerk will be rolled out for Commissioners in early July. She noted Commissioners will log into CivicClerk portal, and she will be trained to provide assistance and support.

XII. ADJOURNMENT

There being no further business, motion to adjourn by Commissioner Worm, and seconded by Commissioner Monge, with all present voting aye (6-0). Motion carried to adjourn the meeting at 8:06 p.m.

The next regularly scheduled Planning Commission Meeting is Thursday, August 5, 2021 at 6:30 p.m.

Members, please notify any planned absences to: Lisa Ritchie
Planning Commission Secretary
lisa.ritchie@northstpaul.org
651-747-2400

CITY OF NORTH ST. PAUL
PLANNING COMMISSION AND
ECONOMIC DEVELOPMENT AUTHORITY
JOINT MEETING MINUTES
THURSDAY, JULY 15, 2021
6:30 P.M.

North St. Paul City Hall – Council Chambers
2400 Margaret Street

I. CALL TO ORDER

Chair Barton called the meeting to order at 6:30 p.m. The meeting was conducted in person and via Zoom.

II. ROLL CALL

PLANNING COMMISSION
Elaine Barton, Commission Chair
Patrick Blees, Commissioner ABSENT
Erik Brenna, Commissioner
Rick Gelbmann, Commissioner
John Monge, Commission Vice Chair
Lisa Wong, Commission City Council Liaison
Andrew Wise, Commissioner
Allan Worm, Commissioner

ECONOMIC DEVELOPMENT AUTHORITY
Robert Dew, Chair
Kevin Fuller, Vice Chair
Don Jensen, Treasurer
Tom Schifsky VIA ZOOM
Archie Vickerman
Terry Furlong, Mayor/Council Representative
Tim Cole, Council Representative
Brett Garry, Business Association Representative ABSENT

STAFF
Brian Frandle, City Manager/EDA Executive Director
Eric Zweber, Planning Consultant
Lisa Ritchie, Planning Secretary

III. ADOPT AGENDA

The July 15, 2021, Joint Meeting Agenda was adopted by consent.

IV. APPROVAL OF MINUTES

The Planning Commission and Economic Development Authority Joint Meeting minutes of March 18, 2021 were approved as presented by consent.

V. MEETING OPEN TO THE PUBLIC

There were no comments.

VI. COMMISSION BUSINESS, ACTION ITEMS & RECOMMENDATIONS

A. Redevelopment Master Plan Update/Review

Economic Development Authority Chair Robert Dew reviewed the Redevelopment Master Plan, a joint effort between the EDA and Planning Commission in 2012, with funding from a Livable Communities grant. He added the Master Plan was developed to align various agencies with the City including the City Council and Planning Commission in terms of what the overall long-term vision for the City should be. He noted the Master Plan was set up in 3 five-year phases, with a recommendation that it should be updated after approximately 10 years.

Chair Dew stated the Master Plan is currently used as a source document for North St. Paul, and much of the development that has occurred is consistent with what was laid out as goals in the Master Plan. He added he hopes that revisiting the plan will ensure that City agencies are aligned, and that any new issues can be addressed.

Chair Dew stated the Master Plan refers to the EDA's responsibility to update and drive the document through its life cycle. He added the EDA reviews development with a view of what is good for the economic health of the community, while the Planning Commission has expertise in dealing with the needs and desires of the community. He noted there are many elements, including pedestrian traffic and bike lanes, that are not discussed at the EDA but are very important to the community, and are salient topics for this joint meeting.

Chair Dew stated the EDA was contacted today by a party interested in purchasing a property in the City and hoping to understand the City's vision for the property in question as well as surrounding areas. He added the Master Plan is extremely valuable for providing that type of information for people who want to invest in the community. He noted it will also be great to be able to say that the City is working on updating the Master Plan.

City Engineer Morgan Dawley stated the City received a fairly significant grant to develop the Master Plan. He added his participation was to advise and provide information regarding infrastructure and transportation, as well as engineering-related issues like land use and zoning. He noted Capital Improvement Plans and other documents were used as guiding documents to prepare the Master Plan.

Mr. Dawley stated he has been through this process with other cities, and the Master Plan is a very good, comprehensive plan. He stressed the importance of understanding that the Master Plan is a guideline and is not meant to be implemented exactly as written. He added it speaks to the quality of the plan that it was completed in 2013 and many recent developments that have happened have made sense. He noted a lot of that depends upon who owns the property and if they are willing to develop it.

Mr. Dawley stated the Master Plan is a guiding document, and an update will benefit the community with a re-interpretation of the goals and objectives to layer on top of the plan so it continues to be a living document that has value. He added the document is useful and has been reviewed by City Staff many times over the years. He noted the Master Plan provides insight into how development comes to fruition with hard work.

Chair Dew stated the objective of tonight's meeting for the EDA is to obtain feedback and comment from the Planning Commissioners and others regarding the value of the document, and what would be the next steps in terms of an update. He added a review should be fairly expedient, showing where the City is today and confirm or deny what is laid out for the next 5-10 years.

Commissioner Monge asked whether the proposed Master Plan update was triggered by a specific development activity.

Chair Dew stated everything that is going on now in the City has been in the works for a very long time, with a few minor exceptions. He added he has been on the EDA almost 11 years, since its inception. He noted development has unfolded as envisioned for the most part, after work sessions and community input.

Chair Dew stated the City will have $155 million in new taxable revenue from development projects over the last 24 months.

Commissioner Gelbmann stated the Master Plan is beneficial because it gets everyone thinking in the same direction. He added this is a key component of the success that is a result of having a Master Plan document. He noted it would be valuable to adjust and update the document to ensure its continued validity.

Commissioner Gelbmann stated it would be valuable to have a recognizable entrance to the City. He added that could be on the west side of McKnight Road. He noted outcome of the Highway 36/Century Avenue intersection is still undecided and could inhibit development in that area.

Chair Dew stated the Highway 36/Highway 120 intersection is a very big issue from a development standpoint. He added the EDA/City has acquired property in that area to encourage development, but it is difficult when there are so many unknown factors. He noted the EDA has requested that the City Council continue to ensure that this issue is a priority.

Chair Dew stated the EDA does not review issues related to parks and green space, especially in the downtown area. He added they are components that are part of the overall planning process and should be revisited.

Commissioner Wise stated he believes there is tremendous value in updating the Master Plan. He added the Comprehensive Plan is a general framework for development, but the Master Plan is aspirational, providing proof that the City is moving towards investment and ownership. He stressed the importance of parks and pedestrian aspects of the Master Plan, and the discussion about how to balance available parking. He expressed his support of giving new life to the Master Plan document.

Ms. Ritchie stated the key to potential projects is the possibility of grant funding. She added Mr. Zweber has mentioned potential funding for a parking ramp, which would have to coincide with a new construction project. She stressed the importance of having resources in place to apply for grants when they become available.

Mr. Zweber stated the advantage of the LCDA is that it is metro area-based and tends to support funding efforts that involve local community groups, especially for transit-related funding.

Chair Dew stated the EDA has not considered seeking grants for updating the Master Plan. He asked whether there is a consensus to move forward with updating the Master Plan.

There was a majority consensus of the EDA and Planning Commission to move forward with an update of the Redevelopment Master Plan.

Chair Dew stated the EDA can take the lead on this process, but it will be of great value to have participants from the Planning Commission, City Staff and the City Council. He proposed that a group of volunteers get together for an exploratory meeting.

Chair Barton stated, under the former Zoning Code, there was a "diversified district", in which no development was allowed except via Conditional Use Permit. She added this made it difficult to encourage development in that area when land became available. She noted the Planning Commission was working on changing the Zoning Code when the Redevelopment Master Plan was developed, which made the process easier.

Chair Barton stated transportation, parking and transit issues – including walkability, bikability, and getting around downtown – should be incorporated to more of a degree than it is now. She added there is some reference to pedestrian friendly Seppala Boulevard, but nothing about 7th Avenue, bike traffic, or connecting to the trail. She noted making the downtown area more livable will encourage new business.

Mayor Furlong stated, with all the development that is going on, it could be very attractive to new residents if the downtown area was more pedestrian and bike friendly. He agreed these issues should be revisited.

Chair Dew proposed that a working session be scheduled that would include at least two City Council representatives and two EDA representatives, as well as Mr. Dawley and Mr. Zweber.

Mayor Furlong stated the new City Manager should also be involved.

B. Downtown Parking Needs

Chair Barton stated the City received a Resilient Communities Grant in 2013 or 2014, and downtown parking was one of the study areas, which was never completed. She added this provides a starting point for this issue.

Chair Dew stated parking should be included in the Redevelopment Master Plan, as parking will become a bigger problem, and not just for a specific project. He added the Planning Commission's expertise and knowledge will be beneficial in addressing this issue as part of the process.

Mayor Furlong stated the City Council will be reviewing Capital Improvement planning, identifying needs including the potential for electric car charging units in the parking lot behind 7^{th} Avenue.

City Manager/Executive Director Brian Frandle stated, as part of downtown reconstruction, a line was added parallel to 7^{th} Avenue on both sides in anticipation of requirements related to electric vehicles. He added the City's power agency, MMPA, is providing a charging station which will probably be located in the parking lot behind the KMJ site. He added the charging station will be similar to the one located in the Fire Station parking lot.

Mr. Frandle stated bike lanes were added on Margaret Street as part of the Livable Communities project. He added the addition of bike lanes was well received by the community.

Mr. Dawley stated WSB played a role in that grant funding effort, to provide a temporary on-street sidewalk on 1^{st} Street from the High School north to 17^{th} Avenue. He added the project helped determine whether there was dedicated space for sidewalks, and whether they would be used. He noted the temporary sidewalk was heavily used by pedestrians and bikes over the 8-week trial period.

Mr. Dawley stated another demonstration project was completed on Margaret Street with temporary bike lanes from 7^{th} Avenue north to 19^{th} Avenue, which was less conclusive. He added there was not a significant increase or decrease, but rather the same amount of bike traffic in both directions on Margaret Street. He noted, since that time, the City Council authorized a feasibility study on a corridor concept, and the Engineering Department developed some concepts of the roadway cross-section.

Mr. Dawley stated City Staff is aware that there is an opportunity to improve the corridor, if the City Council wants to move in that direction. He added the feasibility study has already been discussed by the City Council, and a multi-modal approach is possible from a design standpoint for the Margaret Street corridor. He noted, in his opinion, there is a lot of opportunity for a logical north/south connector and gateway into the parks system.

Chair Barton stated the Planning Commission discussed having bike routes from the gateway as well as Margaret Street. She added bike parking should be added in the downtown area, as there is currently no bike parking downtown.

Mayor Furlong stated the bike racks were purchased many years ago. He added there should be a plan for adding bike racks in the downtown area.

Mayor Furlong stated the Rotary Club has plans to add signage in Rotary Park, which is a gateway to the community.

Mr. Dawley stated the position of City Staff is that plans and improvements in the downtown area are very flexible. He added there is opportunity for bike parking and bike racks, which can be implemented fairly easily, and have always been part of the overall plan.

Commissioner Monge stated it would be ideal to put some type of City identification on the Margaret Street bridge. He added signage would be beneficial for residents as well as visitors.

Mayor Furlong stated the City had difficulties with MnDOT with regard to getting signage on Highway 36 to identify the City's entrance points.

Ms. Ritchie stated the City Council adopted a Resolution in 2016 approving a Wayfinding Plan. She added the Rotary Club plans to add signage in their park, which could be part of the City's overall signage plan. She noted signage above the bridges was proposed as part of the Wayfinding Plan.

Mr. Dawley stated the Highway 120/Highway 36 interchange will involve two counties and two cities, and the City should be involved throughout the entire process. He added funding has been allocated in the draft transportation plan by Ramsey County and MnDOT for signage on new interchanges.

Chair Dew stressed the importance of joint meetings between the EDA and Planning Commission, to encourage understanding of planning issues that are important for the community. He added he will follow up with regard to the proposed working group.

VII. REPORTS FROM COUNCIL LIAISON

Mayor Furlong thanked the Planning Commission and EDA for their hard work and efforts on behalf of the City of North St. Paul and its residents.

VIII. REPORTS FROM COMMISSIONERS

Chair Barton asked whether there were any reports from Commissioners.

Commissioner Brenna stated he is a MnDOT employee. He added it is important to keep having these conversations. He noted the MnDOT State Aid Office has funding available every other year for Safe Routes to School, which might be an option for funding for Margaret Street.

IX. ADJOURNMENT

There being no further business, motion to adjourn by Chair Barton, and seconded by Commissioner Worm, with all present voting aye. Motion carried to adjourn the meeting at 7:51 p.m.

Memorandum

To: Planning Commission Chair Barton and Planning Commissioners

From: Eric Zweber, AICP, City Planner

Date: July 30, 2021

Re: City of North Saint Paul, MN – Sign Code Ordinance Amendments
WSB Project No. 017235-444

Dear Chair Barton and Planning Commissioners:

Many jurisdictions across the nation have taken action to amend their existing sign code in response to the 2015 U.S. Supreme Court case, Reed v. Town of Gilbert (Arizona). The Supreme Court found that the Town of Gilbert's sign code violated the guarantee of freedom of speech within the First Amendment, thereby making the code unconstitutional. Gilbert's sign code gave way to regulation based on content and differentiated between sign codes requiring permits and signs that were exempt from permits such as political signs, ideological signs, and temporary directional signage. The ruling clarified that sign codes must be content neutral such that sign regulations cannot vary standards such as size, location, and duration based on the message of the sign (i.e., political signs, real estate – for sale signs). The more content neutral the sign code is, the less likely the municipality has of being challenged.

In August of 2017, the 9th Circuit Court of Appeals issued an opinion in a related case – Contest Promotions v. City/County of San Francisco, stating that Reed v. Gilbert does not extend to commercial speech. This ruling addressed a previous case in 1993, Collier v. Tacoma (Washington), which enacted that political signage could not be restricted to being placed 60 days before an election and were allowed to occupy within the parking strip portion of the public right-of-way. The intent of the amendment is to review the City's current regulations and draft changes to comply with the findings of both the Reed v. Town of Gilbert and San Francisco rulings.

Existing sign regulations are commonly based on the type or message of the regulated sign. A sign code update is an opportunity to identify existing strengths and weaknesses within the code. An update would focus on enhancements to the overall legibility and use, materials, implementation of the City's overall vision, and inconsistencies within existing code regulations.

The scope of the amendment has been limited to identifying aspects of the existing regulations that are not in conformances with the rulings from the recent case law and cause the City risk when enforcing sign code regulations.

The Reed case held that regulations that apply to non-commercial signs must apply uniformly to all non-commercial signs, without deviation. For example, prior to Reed most cities have sign codes that separate regulations for the size, location, and amount of time a sign could be posted that differed depending on whether the sign was a temporary sign, political sign, sign advertising a special event, or a sign advertising a garage sale. As a result of Reed, the Court said cities could no longer distinguish between the sign types (e.g., all political signs must be subject to the same regulations as special event signage). This extends to permitting requirements; the city cannot require special events to obtain a permit while exempting political signage from a permit requirement. A review of North Saint Paul's existing sign code within Code of Ordinance Section

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154.011 Signs has been conducted to evaluate some of the inconsistencies and concerns relating to the lack of conformance within the findings from the Reed case. The following identifies certain sections of existing code that are not considered content neutral and would ultimately require revision to apply regulation towards.

1. Definitions (§154.003) – Defined text that could be problematic when implementing regulations. Overall, the goal is to add and/or remove definitions as needed and revise verbiage to speak to content neutrality.
    - **a)** Add (as needed)
    - **b)** Revise Verbiage - Speak to Content Neutrality
        - Example – "***COMMERCIAL MESSAGE.*** *Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity."*
        - Example – *"**RESIDENTIAL.** Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms to all requirements of the zoning ordinance."*
    - **c)** Removing definitions which specifically reference content such as – "ornamental, promotional, garage sale/yard sale, political, real estate sign.
        - Example – "***POLITICAL****. A sign which advertises or promotes a candidate for public office, a political party or an issue to be considered in a public election."*
        - Example – "***REAL ESTATE****. A sign which advertises the development, sale, lease or rental of land or buildings."*

2. Removing Provisions Within the Code That Speak to Content
3. Revising the Sign Code to Regulate Both Permanent and Temporary Signage by Zone (Residential v. Non-Residential).
    - **a)** Residential Zones
        - Remove references to sign types that speak to content such as garage/yard sale signs, real estate signs, political signs etc.
    - **b)** Regulate Signage by Type of sign – wall signs, freestanding, flags, A-frame.
        - Example – §154.011 (J) Temporary Signs (2) Street banners. *Street banners advertising a public or civic event may be displayed 21 days prior to and three days after the event but may not hang for a period greater than 30 days.*
            - **1)** By referencing that Street Banners are specifically permitted for a public or civic event would require that one must read the sign and decipher if it is truly allowed for the specific civic or public event.
        - Example of Content Neutrality with Temporary Signage – City of White Bear Lake, §1202.030 (C) (13) (b) – Temporary Banners, *"b. In Commercial and Industrial business districts, properties without dynamic display signs may have up to four (4) banners permitted per property per calendar year, but not to exceed sixty (60) consecutive days for any one banner and not more than one (1) banner at a time for single tenant buildings. The total number of banner display days shall not exceed more than one hundred twenty (120) days per calendar year. Each banner displayed on the site on any given day will be counted as a banner display day. A sign permit is not required, but all banners*

> *must be registered with the Zoning Administrator to ensure compliance. A banner shall not count towards the building or properties' maximum allowable sign area. Banners shall be a maximum of thirty-two (32) square feet in area and shall be attached to a building or other permanent structure. For multi-tenant buildings where each tenant has a separate entrance and the property does not have a dynamic display sign, each tenant is permitted up to three (3) banner signs per calendar year, not to exceed sixty (60) consecutive days per banner or ninety (90) banner display days total per calendar year. No more than two (2) banners shall be displayed at any given time. For properties with dynamic display areas incorporated into the sign, temporary banners are prohibited*."

Despite the Supreme Court case occurring in 2015 many cities have been hesitant to revise their code. Surrounding communities such as Woodbury, Maplewood, and Oakdale have made minor revisions to their code but overall have not repealed and revised their sign codes to ensure full content neutrality. A sign code amendment has been proposed for the City of North Saint Paul to bring the City's sign regulations into compliance with the 2015 decision in the case of Reed v. Town of Gilbert. Should the City choose to embark on a sign code update efforts will be taken to ensure that North Saint Paul's sign code leads with a strong purpose statement and relates to the city's comprehensive plan, ensures well defined and appropriate definitions, easily navigable sections, and digestible verbiage, and ultimately provide a code amendment with content neutral regulations that would pass strict scrutiny regarding Reed v. Gilbert and other related court cases.

Sincerely,

WSB

Eric Zweber

Eric Zweber, AICP
City Planner

Attachments:

1. Reed v. Gilbert – Supreme Court Case Brief
2. City of North Saint Paul Existing Side Code – Section 154.011
3. Examples of Cities with Minor to No Sign Code Changes Post Reed v. Gilbert
    a. Woodbury, MN – Sign Code (https://library.municode.com/mn/woodbury/codes/code_of_ordinances?nodeId=CICO_CH18.5SI)
    b. Maplewood, MN – Sign Code (https://library.municode.com/mn/maplewood/codes/code_of_ordinances?nodeId=COOR_CH44ZO_ARTIIISIRE)
    c. Oakdale, MN – Sign Code (https://www.ci.oakdale.mn.us/DocumentCenter/View/1134/Zoning-Code-Article-19-PDF?bidId=)
4. Example of Surrounding City with Specific Sign Code Amendments Post Reed v. Gilbert
    a. White Bear Lake, MN – Sign Code (https://www.whitebearlake.org/sites/default/files/fileattachments/administration/page/1771/chapter_1202.pdf)

cc: Brian Frandle, City Manager
Lisa Ritchie, Community Development Custer Service

CP

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

REED ET AL. *v.* TOWN OF GILBERT, ARIZONA, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 13–502. Argued January 12, 2015—Decided June 18, 2015

Gilbert, Arizona (Town), has a comprehensive code (Sign Code or Code) that prohibits the display of outdoor signs without a permit, but exempts 23 categories of signs, including three relevant here. "Ideological Signs," defined as signs "communicating a message or ideas" that do not fit in any other Sign Code category, may be up to 20 square feet and have no placement or time restrictions. "Political Signs," defined as signs "designed to influence the outcome of an election," may be up to 32 square feet and may only be displayed during an election season. "Temporary Directional Signs," defined as signs directing the public to a church or other "qualifying event," have even greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the "qualifying event" and 1 hour after.

Petitioners, Good News Community Church (Church) and its pastor, Clyde Reed, whose Sunday church services are held at various temporary locations in and near the Town, posted signs early each Saturday bearing the Church name and the time and location of the next service and did not remove the signs until around midday Sunday. The Church was cited for exceeding the time limits for displaying temporary directional signs and for failing to include an event date on the signs. Unable to reach an accommodation with the Town, petitioners filed suit, claiming that the Code abridged their freedom of speech. The District Court denied their motion for a preliminary injunction, and the Ninth Circuit affirmed, ultimately concluding that the Code's sign categories were content neutral, and that the Code satisfied the intermediate scrutiny accorded to content-neutral regulations of speech.

Held: The Sign Code's provisions are content-based regulations of speech that do not survive strict scrutiny. Pp. 6–17.

(a) Because content-based laws target speech based on its communicative content, they are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *E.g., R. A. V.* v. *St. Paul*, 505 U. S. 377, 395. Speech regulation is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g., Sorrell* v. *IMS Health, Inc.*, 564 U. S. ___, ___–___. And courts are required to consider whether a regulation of speech "on its face" draws distinctions based on the message a speaker conveys. *Id.,* at ___. Whether laws define regulated speech by particular subject matter or by its function or purpose, they are subject to strict scrutiny. The same is true for laws that, though facially content neutral, cannot be " 'justified without reference to the content of the regulated speech,' " or were adopted by the government "because of disagreement with the message" conveyed. *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791. Pp. 6–7.

(b) The Sign Code is content based on its face. It defines the categories of temporary, political, and ideological signs on the basis of their messages and then subjects each category to different restrictions. The restrictions applied thus depend entirely on the sign's communicative content. Because the Code, on its face, is a content-based regulation of speech, there is no need to consider the government's justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny. Pp. 7.

(c) None of the Ninth Circuit's theories for its contrary holding is persuasive. Its conclusion that the Town's regulation was not based on a disagreement with the message conveyed skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of "animus toward the ideas contained" in the regulated speech. *Cincinnati* v. *Discovery Network, Inc.,* 507 U. S. 410, 429. Thus, an innocuous justification cannot transform a facially content-based law into one that is content neutral. A court must evaluate each question—whether a law is content based on its face and whether the purpose and justification for the law are content based—before concluding that a law is content neutral. *Ward* does not require otherwise, for its framework applies only to a content-neutral statute.

The Ninth Circuit's conclusion that the Sign Code does not single out any idea or viewpoint for discrimination conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints is a "more blatant" and "egregious form of content discrimination," *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829, but "[t]he First Amendment's hostility to content-based regulation [also] extends . . . to prohibition of public discussion of an entire topic," *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537. The Sign Code, a paradigmatic example of content-based discrimination, singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter.

The Ninth Circuit also erred in concluding that the Sign Code was not content based because it made only speaker-based and event-based distinctions. The Code's categories are not speaker-based—the restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. And even if the sign categories were speaker based, that would not automatically render the law content neutral. Rather, "laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference." *Turner Broadcasting System, Inc.* v. *FCC*, 512 U. S. 622, 658. This same analysis applies to event-based distinctions. Pp. 8–14.

(d) The Sign Code's content-based restrictions do not survive strict scrutiny because the Town has not demonstrated that the Code's differentiation between temporary directional signs and other types of signs furthers a compelling governmental interest and is narrowly tailored to that end. See *Arizona Free Enterprise Club's Freedom Club PAC* v. *Bennett*, 564 U. S. ___, ___. Assuming that the Town has a compelling interest in preserving its aesthetic appeal and traffic safety, the Code's distinctions are highly underinclusive. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town when other types of signs create the same problem. See *Discovery Network*, *supra,* at 425. Nor has it shown that temporary directional signs pose a greater threat to public safety than ideological or political signs. Pp. 14–15.

(e) This decision will not prevent governments from enacting effective sign laws. The Town has ample content-neutral options available to resolve problems with safety and aesthetics, including regulating size, building materials, lighting, moving parts, and portability. And the Town may be able to forbid postings on public property, so long as it does so in an evenhanded, content-neutral manner. See *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789, 817. An ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—*e.g.,* warning signs marking hazards on private property or signs directing traffic—might also survive strict scrutiny. Pp. 16–17.

707 F. 3d 1057, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, ALITO, and SOTOMAYOR, JJ., joined. ALITO, J., filed a concurring opinion, in which KENNEDY and SOTOMAYOR, JJ., joined. BREYER, J., filed an opinion concurring in the judgment. KAGAN, J., filed an opinion concurring in the judgment, in which GINSBURG and BREYER, JJ., joined

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE THOMAS delivered the opinion of the Court.

The town of Gilbert, Arizona (or Town), has adopted a comprehensive code governing the manner in which people may display outdoor signs. Gilbert, Ariz., Land Development Code (Sign Code or Code), ch. 1, §4.402 (2005).[1] The Sign Code identifies various categories of signs based on the type of information they convey, then subjects each category to different restrictions. One of the categories is "Temporary Directional Signs Relating to a Qualifying Event," loosely defined as signs directing the public to a meeting of a nonprofit group. §4.402(P). The Code imposes more stringent restrictions on these signs than it does on signs conveying other messages. We hold that these provisions are content-based regulations of speech that cannot survive strict scrutiny.

[1] The Town's Sign Code is available online at http://www.gilbertaz.gov/departments/development-service/planning-development/land-development-code (as visited June 16, 2015, and available in Clerk of Court's case file).

I

A

The Sign Code prohibits the display of outdoor signs anywhere within the Town without a permit, but it then exempts 23 categories of signs from that requirement. These exemptions include everything from bazaar signs to flying banners. Three categories of exempt signs are particularly relevant here.

The first is "Ideological Sign[s]." This category includes any "sign communicating a message or ideas for noncommercial purposes that is not a Construction Sign, Directional Sign, Temporary Directional Sign Relating to a Qualifying Event, Political Sign, Garage Sale Sign, or a sign owned or required by a governmental agency." Sign Code, Glossary of General Terms (Glossary), p. 23 (emphasis deleted). Of the three categories discussed here, the Code treats ideological signs most favorably, allowing them to be up to 20 square feet in area and to be placed in all "zoning districts" without time limits. §4.402(J).

The second category is "Political Sign[s]." This includes any "temporary sign designed to influence the outcome of an election called by a public body." Glossary 23.[2] The Code treats these signs less favorably than ideological signs. The Code allows the placement of political signs up to 16 square feet on residential property and up to 32 square feet on nonresidential property, undeveloped municipal property, and "rights-of-way." §4.402(I).[3] These signs may be displayed up to 60 days before a primary election and up to 15 days following a general election. *Ibid.*

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[2] A "Temporary Sign" is a "sign not permanently attached to the ground, a wall or a building, and not designed or intended for permanent display." Glossary 25.

[3] The Code defines "Right-of-Way" as a "strip of publicly owned land occupied by or planned for a street, utilities, landscaping, sidewalks, trails, and similar facilities." *Id.,* at 18.

The third category is "Temporary Directional Signs Relating to a Qualifying Event." This includes any "Temporary Sign intended to direct pedestrians, motorists, and other passersby to a 'qualifying event.'" Glossary 25 (emphasis deleted). A "qualifying event" is defined as any "assembly, gathering, activity, or meeting sponsored, arranged, or promoted by a religious, charitable, community service, educational, or other similar non-profit organization." *Ibid.* The Code treats temporary directional signs even less favorably than political signs.[4] Temporary directional signs may be no larger than six square feet. §4.402(P). They may be placed on private property or on a public right-of-way, but no more than four signs may be placed on a single property at any time. *Ibid.* And, they may be displayed no more than 12 hours before the "qualifying event" and no more than 1 hour afterward. *Ibid.*

B

Petitioners Good News Community Church (Church) and its pastor, Clyde Reed, wish to advertise the time and location of their Sunday church services. The Church is a small, cash-strapped entity that owns no building, so it holds its services at elementary schools or other locations in or near the Town. In order to inform the public about its services, which are held in a variety of different loca-

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[4] The Sign Code has been amended twice during the pendency of this case. When litigation began in 2007, the Code defined the signs at issue as "Religious Assembly Temporary Direction Signs." App. 75. The Code entirely prohibited placement of those signs in the public right-of-way, and it forbade posting them in any location for more than two hours before the religious assembly or more than one hour afterward. *Id.,* at 75–76. In 2008, the Town redefined the category as "Temporary Directional Signs Related to a Qualifying Event," and it expanded the time limit to 12 hours before and 1 hour after the "qualifying event." *Ibid.* In 2011, the Town amended the Code to authorize placement of temporary directional signs in the public right-of-way. *Id.,* at 89.

tions, the Church began placing 15 to 20 temporary signs around the Town, frequently in the public right-of-way abutting the street. The signs typically displayed the Church's name, along with the time and location of the upcoming service. Church members would post the signs early in the day on Saturday and then remove them around midday on Sunday. The display of these signs requires little money and manpower, and thus has proved to be an economical and effective way for the Church to let the community know where its services are being held each week.

This practice caught the attention of the Town's Sign Code compliance manager, who twice cited the Church for violating the Code. The first citation noted that the Church exceeded the time limits for displaying its temporary directional signs. The second citation referred to the same problem, along with the Church's failure to include the date of the event on the signs. Town officials even confiscated one of the Church's signs, which Reed had to retrieve from the municipal offices.

Reed contacted the Sign Code Compliance Department in an attempt to reach an accommodation. His efforts proved unsuccessful. The Town's Code compliance manager informed the Church that there would be "no leniency under the Code" and promised to punish any future violations.

Shortly thereafter, petitioners filed a complaint in the United States District Court for the District of Arizona, arguing that the Sign Code abridged their freedom of speech in violation of the First and Fourteenth Amendments. The District Court denied the petitioners' motion for a preliminary injunction. The Court of Appeals for the Ninth Circuit affirmed, holding that the Sign Code's provision regulating temporary directional signs did not regulate speech on the basis of content. 587 F. 3d 966, 979 (2009). It reasoned that, even though an enforcement officer would have to read the sign to determine what provisions of the Sign Code applied to it, the "'kind of cursory examination'" that would be necessary for an officer to classify it as a temporary directional sign was "not akin to an officer synthesizing the expressive content of the sign." *Id.*, at 978. It then remanded for the District Court to determine in the first instance whether the Sign Code's distinctions among temporary directional signs, political signs, and ideological signs nevertheless constituted a content-based regulation of speech.

On remand, the District Court granted summary judgment in favor of the Town. The Court of Appeals again affirmed, holding that the Code's sign categories were content neutral. The court concluded that "the distinctions between Temporary Directional Signs, Ideological Signs, and Political Signs . . . are based on objective factors relevant to Gilbert's creation of the specific exemption from the permit requirement and do not otherwise consider the substance of the sign." 707 F. 3d 1057, 1069 (CA9 2013). Relying on this Court's decision in *Hill* v. *Colorado*, 530 U. S. 703 (2000), the Court of Appeals concluded that the Sign Code is content neutral. 707 F. 3d, at 1071–1072. As the court explained, "Gilbert did not adopt its regulation of speech because it disagreed with the message conveyed" and its "interests in regulat[ing] temporary signs are unrelated to the content of the sign." *Ibid.* Accordingly, the court believed that the Code was "content-neutral as that term [has been] defined by the Supreme Court." *Id.,* at 1071. In light of that determination, it applied a lower level of scrutiny to the Sign Code and concluded that the law did not violate the First Amendment. *Id.*, at 1073–1076.

We granted certiorari, 573 U. S. ___ (2014), and now reverse.

II

A

The First Amendment, applicable to the States through the Fourteenth Amendment, prohibits the enactment of laws "abridging the freedom of speech." U. S. Const., Amdt. 1. Under that Clause, a government, including a municipal government vested with state authority, "has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 95 (1972). Content-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *R. A. V.* v. *St. Paul*, 505 U. S. 377, 395 (1992); *Simon & Schuster, Inc.* v. *Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 115, 118 (1991).

Government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g., Sorrell* v. *IMS Health, Inc.*, 564 U. S. ___, ___–___ (2011) (slip op., at 8–9); *Carey* v. *Brown*, 447 U. S. 455, 462 (1980); *Mosley*, *supra,* at 95. This commonsense meaning of the phrase "content based" requires a court to consider whether a regulation of speech "on its face" draws distinctions based on the message a speaker conveys. *Sorrell*, *supra,* at ___ (slip op., at 8). Some facial distinctions based on a message are obvious, defining regulated speech by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose. Both are distinctions drawn based on the message a speaker conveys, and, therefore, are subject to strict scrutiny.

Our precedents have also recognized a separate and additional category of laws that, though facially content neutral, will be considered content-based regulations of speech: laws that cannot be "'justified without reference to the content of the regulated speech,'" or that were adopted by the government "because of disagreement with the message [the speech] conveys," *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791 (1989). Those laws, like those that are content based on their face, must also satisfy strict scrutiny.

B

The Town's Sign Code is content based on its face. It defines "Temporary Directional Signs" on the basis of whether a sign conveys the message of directing the public to church or some other "qualifying event." Glossary 25. It defines "Political Signs" on the basis of whether a sign's message is "designed to influence the outcome of an election." *Id.,* at 24. And it defines "Ideological Signs" on the basis of whether a sign "communicat[es] a message or ideas" that do not fit within the Code's other categories. *Id.,* at 23. It then subjects each of these categories to different restrictions.

The restrictions in the Sign Code that apply to any given sign thus depend entirely on the communicative content of the sign. If a sign informs its reader of the time and place a book club will discuss John Locke's Two Treatises of Government, that sign will be treated differently from a sign expressing the view that one should vote for one of Locke's followers in an upcoming election, and both signs will be treated differently from a sign expressing an ideological view rooted in Locke's theory of government. More to the point, the Church's signs inviting people to attend its worship services are treated differently from signs conveying other types of ideas. On its face, the Sign Code is a content-based regulation of speech. We thus have no need to consider the government's justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny.

C

In reaching the contrary conclusion, the Court of Appeals offered several theories to explain why the Town's Sign Code should be deemed content neutral. None is persuasive.

1

The Court of Appeals first determined that the Sign Code was content neutral because the Town "did not adopt its regulation of speech [based on] disagree[ment] with the message conveyed," and its justifications for regulating temporary directional signs were "unrelated to the content of the sign." 707 F. 3d, at 1071–1072. In its brief to this Court, the United States similarly contends that a sign regulation is content neutral—even if it expressly draws distinctions based on the sign's communicative content—if those distinctions can be "'justified without reference to the content of the regulated speech.'" Brief for United States as *Amicus Curiae* 20, 24 (quoting *Ward, supra*, at 791; emphasis deleted).

But this analysis skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of "animus toward the ideas contained" in the regulated speech. *Cincinnati* v. *Discovery Network*, *Inc.,* 507 U. S. 410, 429 (1993). We have thus made clear that "'[i]llicit legislative intent is not the *sine qua non* of a violation of the First Amendment,'" and a party opposing the government "need adduce 'no evidence of an improper censorial motive.'" *Simon & Schuster, supra,* at 117. Although "a content-based purpose may be sufficient in certain circumstances to show that a regulation is content based, it is not necessary." *Turner Broadcasting System, Inc.* v. *FCC*, 512 U. S. 622, 642 (1994). In other words, an innocuous justification cannot transform a facially content-based law into one that is content neutral.

That is why we have repeatedly considered whether a law is content neutral on its face *before* turning to the law's justification or purpose. See, *e.g., Sorrell*, *supra,* at ___–___ (slip op., at 8–9) (statute was content based "on its face," and there was also evidence of an impermissible legislative motive); *United States* v. *Eichman*, 496 U. S. 310, 315 (1990) ("Although the [statute] contains no explicit content-based limitation on the scope of prohibited conduct, it is nevertheless clear that the Government's asserted *interest* is related to the suppression of free expression" (internal quotation marks omitted)); *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789, 804 (1984) ("The text of the ordinance is neutral," and "there is not even a hint of bias or censorship in the City's enactment or enforcement of this ordinance"); *Clark* v. *Community for Creative Non-Violence*, 468 U. S. 288, 293 (1984) (requiring that a facially content-neutral ban on camping must be "justified without reference to the content of the regulated speech"); *United States* v. *O'Brien*, 391 U. S. 367, 375, 377 (1968) (noting that the statute "on its face deals with conduct having no connection with speech," but examining whether the "the governmental interest is unrelated to the suppression of free expression"). Because strict scrutiny applies either when a law is content based on its face or when the purpose and justification for the law are content based, a court must evaluate each question before it concludes that the law is content neutral and thus subject to a lower level of scrutiny.

The Court of Appeals and the United States misunderstand our decision in *Ward* as suggesting that a government's purpose is relevant even when a law is content based on its face. That is incorrect. *Ward* had nothing to say about facially content-based restrictions because it involved a facially content-*neutral* ban on the use, in a city-owned music venue, of sound amplification systems not provided by the city. 491 U. S., at 787, and n. 2. In that context, we looked to governmental motive, including whether the government had regulated speech "because of disagreement" with its message, and whether the regulation was "'justified without reference to the content of the speech.'" *Id.,* at 791. But *Ward*'s framework "applies only if a statute is content neutral." *Hill*, 530 U. S., at 766 (KENNEDY, J., dissenting). Its rules thus operate "to protect speech," not "to restrict it." *Id.,* at 765.

The First Amendment requires no less. Innocent motives do not eliminate the danger of censorship presented by a facially content-based statute, as future government officials may one day wield such statutes to suppress disfavored speech. That is why the First Amendment expressly targets the operation of the laws—*i.e.,* the "abridg[ement] of speech"—rather than merely the motives of those who enacted them. U. S. Const., Amdt. 1. "'The vice of content-based legislation . . . is not that it is always used for invidious, thought-control purposes, but that it lends itself to use for those purposes.'" *Hill, supra,* at 743 (SCALIA, J., dissenting).

For instance, in *NAACP* v. *Button*, 371 U. S. 415 (1963), the Court encountered a State's attempt to use a statute prohibiting "'improper solicitation'" by attorneys to outlaw litigation-related speech of the National Association for the Advancement of Colored People. *Id.,* at 438. Although *Button* predated our more recent formulations of strict scrutiny, the Court rightly rejected the State's claim that its interest in the "regulation of professional conduct" rendered the statute consistent with the First Amendment, observing that "it is no answer . . . to say . . . that the purpose of these regulations was merely to insure high professional standards and not to curtail free expression." *Id.,* at 438–439. Likewise, one could easily imagine a Sign Code compliance manager who disliked the Church's substantive teachings deploying the Sign Code to make it more difficult for the Church to inform the public of the location of its services. Accordingly, we have repeatedly "rejected the argument that 'discriminatory . . . treatment is suspect under the First Amendment only when the legislature intends to suppress certain ideas.'" *Discovery Network,* 507 U. S., at 429. We do so again today.

2

The Court of Appeals next reasoned that the Sign Code was content neutral because it "does not mention any idea or viewpoint, let alone single one out for differential treatment." 587 F. 3d, at 977. It reasoned that, for the purpose of the Code provisions, "[i]t makes no difference which candidate is supported, who sponsors the event, or what ideological perspective is asserted." 707 F. 3d, at 1069.

The Town seizes on this reasoning, insisting that "content based" is a term of art that "should be applied flexibly" with the goal of protecting "viewpoints and ideas from government censorship or favoritism." Brief for Respondents 22. In the Town's view, a sign regulation that "does not censor or favor particular viewpoints or ideas" cannot be content based. *Ibid*. The Sign Code allegedly passes this test because its treatment of temporary directional signs does not raise any concerns that the government is "endorsing or suppressing 'ideas or viewpoints,'" *id.*, at 27, and the provisions for political signs and ideological signs "are neutral as to particular ideas or viewpoints" within those categories. *Id.*, at 37.

This analysis conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints—or the regulation of speech based on "the specific motivating ideology or the opinion or perspective of the speaker"—is a "more blatant" and "egregious form of content discrimination." *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). But it is well established that "[t]he First Amendment's hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic." *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537 (1980).

Thus, a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter. *Ibid.* For example, a law banning the use of sound trucks for political speech—and only political speech—would be a content-based regulation, even if it imposed no limits on the political viewpoints that could be expressed. See *Discovery Network, supra,* at 428. The Town's Sign Code likewise singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter. Ideological messages are given more favorable treatment than messages concerning a political candidate, which are themselves given more favorable treatment than messages announcing an assembly of like-minded individuals. That is a paradigmatic example of content-based discrimination.

3

Finally, the Court of Appeals characterized the Sign Code's distinctions as turning on "'the content-neutral elements of who is speaking through the sign and whether and when an event is occurring.'" 707 F. 3d, at 1069. That analysis is mistaken on both factual and legal grounds.

To start, the Sign Code's distinctions are not speaker based. The restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. If a local business, for example, sought to put up signs advertising the Church's meetings, those signs would be subject to the same limitations as such signs placed by the Church. And if Reed had decided to display signs in support of a particular candidate, he could have made those signs far larger—and kept them up for far longer—than signs inviting people to attend his church services. If the Code's distinctions were truly speaker based, both types of signs would receive the same treatment.

In any case, the fact that a distinction is speaker based does not, as the Court of Appeals seemed to believe, automatically render the distinction content neutral. Because "[s]peech restrictions based on the identity of the speaker are all too often simply a means to control content," *Citizens United* v. *Federal Election Comm'n*, 558 U. S. 310, 340 (2010), we have insisted that "laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference," *Turner,* 512 U. S., at 658. Thus, a law limiting the content of newspapers, but only newspapers, could not evade strict scrutiny simply because it could be characterized as speaker based. Likewise, a content-based law that restricted the political speech of all corporations would not become content neutral just because it singled out corporations as a class of speakers. See *Citizens United, supra*, at 340–341. Characterizing a distinction as speaker based is only the beginning—not the end—of the inquiry.

Nor do the Sign Code's distinctions hinge on "whether and when an event is occurring." The Code does not permit citizens to post signs on any topic whatsoever within a set period leading up to an election, for example. Instead, come election time, it requires Town officials to determine whether a sign is "designed to influence the outcome of an election" (and thus "political") or merely "communicating a message or ideas for noncommercial purposes" (and thus "ideological"). Glossary 24. That obvious content-based inquiry does not evade strict scrutiny review simply because an event (*i.e.,* an election) is involved.

And, just as with speaker-based laws, the fact that a distinction is event based does not render it content neutral. The Court of Appeals cited no precedent from this Court supporting its novel theory of an exception from the content-neutrality requirement for event-based laws. As we have explained, a speech regulation is content based if the law applies to particular speech because of the topic discussed or the idea or message expressed. *Supra,* at 6. A regulation that targets a sign because it conveys an idea about a specific event is no less content based than a regulation that targets a sign because it conveys some other idea. Here, the Code singles out signs bearing a particular message: the time and location of a specific event. This type of ordinance may seem like a perfectly rational way to regulate signs, but a clear and firm rule governing content neutrality is an essential means of protecting the freedom of speech, even if laws that might seem "entirely reasonable" will sometimes be "struck down because of their content-based nature." *City of Ladue* v. *Gilleo*, 512 U. S. 43, 60 (1994) (O'Connor, J., concurring).

III

Because the Town's Sign Code imposes content-based restrictions on speech, those provisions can stand only if they survive strict scrutiny, "'which requires the Government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest,'" *Arizona Free Enterprise Club's Freedom Club PAC* v. *Bennett*, 564 U. S. ___, ___ (2011) (slip op., at 8) (quoting *Citizens United*, 558 U. S.*,* at 340). Thus, it is the Town's burden to demonstrate that the Code's differentiation between temporary directional signs and other types of signs, such as political signs and ideological signs, furthers a compelling governmental interest and is narrowly tailored to that end. See *ibid.*

The Town cannot do so. It has offered only two governmental interests in support of the distinctions the Sign Code draws: preserving the Town's aesthetic appeal and traffic safety. Assuming for the sake of argument that those are compelling governmental interests, the Code's distinctions fail as hopelessly underinclusive.

Starting with the preservation of aesthetics, temporary directional signs are "no greater an eyesore," *Discovery Network*, 507 U. S., at 425, than ideological or political ones. Yet the Code allows unlimited proliferation of larger ideological signs while strictly limiting the number, size, and duration of smaller directional ones. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town while at the same time allowing unlimited numbers of other types of signs that create the same problem.

The Town similarly has not shown that limiting temporary directional signs is necessary to eliminate threats to traffic safety, but that limiting other types of signs is not. The Town has offered no reason to believe that directional signs pose a greater threat to safety than do ideological or political signs. If anything, a sharply worded ideological sign seems more likely to distract a driver than a sign directing the public to a nearby church meeting.

In light of this underinclusiveness, the Town has not met its burden to prove that its Sign Code is narrowly tailored to further a compelling government interest. Because a "'law cannot be regarded as protecting an interest of the highest order, and thus as justifying a restriction on truthful speech, when it leaves appreciable damage to that supposedly vital interest unprohibited,'" *Republican Party of Minn.* v. *White*, 536 U. S. 765, 780 (2002), the Sign Code fails strict scrutiny.

IV

Our decision today will not prevent governments from enacting effective sign laws. The Town asserts that an "'absolutist'" content-neutrality rule would render "virtually all distinctions in sign laws . . . subject to strict scrutiny," Brief for Respondents 34–35, but that is not the case. Not "all distinctions" are subject to strict scrutiny, only *content-based* ones are. Laws that are *content neutral* are instead subject to lesser scrutiny. See *Clark*, 468 U. S., at 295.

The Town has ample content-neutral options available to resolve problems with safety and aesthetics. For example, its current Code regulates many aspects of signs that have nothing to do with a sign's message: size, building materials, lighting, moving parts, and portability. See, *e.g.,* §4.402(R). And on public property, the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner. See *Taxpayers for Vincent*, 466 U. S., at 817 (upholding content-neutral ban against posting signs on public property). Indeed, some lower courts have long held that similar content-based sign laws receive strict scrutiny, but there is no evidence that towns in those jurisdictions have suffered catastrophic effects. See, *e.g., Solantic, LLC* v. *Neptune Beach*, 410 F. 3d 1250, 1264–1269 (CA11 2005) (sign categories similar to the town of Gilbert's were content based and subject to strict scrutiny); *Matthews* v. *Needham*, 764 F. 2d 58, 59–60 (CA1 1985) (law banning political signs but not commercial signs was content based and subject to strict scrutiny).

We acknowledge that a city might reasonably view the general regulation of signs as necessary because signs "take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation." *City of Ladue*, 512 U. S., at 48. At the same time, the presence of certain signs may be essential, both for vehicles and pedestrians, to guide traffic or to identify hazards and ensure safety. A sign ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—such as warning signs marking hazards on private property, signs directing traffic, or street numbers associated with private houses—well might survive strict scrutiny. The signs at issue in this case, including political and ideological signs and signs for events, are far removed from those purposes. As discussed above, they are facially content based and are neither justified by traditional safety concerns nor narrowly tailored.

* * *

We reverse the judgment of the Court of Appeals and remand the case for proceedings consistent with this opinion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE ALITO, with whom JUSTICE KENNEDY and JUSTICE SOTOMAYOR join, concurring.

I join the opinion of the Court but add a few words of further explanation.

As the Court holds, what we have termed "content-based" laws must satisfy strict scrutiny. Content-based laws merit this protection because they present, albeit sometimes in a subtler form, the same dangers as laws that regulate speech based on viewpoint. Limiting speech based on its "topic" or "subject" favors those who do not want to disturb the status quo. Such regulations may interfere with democratic self-government and the search for truth. See *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537 (1980).

As the Court shows, the regulations at issue in this case are replete with content-based distinctions, and as a result they must satisfy strict scrutiny. This does not mean, however, that municipalities are powerless to enact and enforce reasonable sign regulations. I will not attempt to provide anything like a comprehensive list, but here are some rules that would not be content based:

Rules regulating the size of signs. These rules may distinguish among signs based on any content-neutral criteria, including any relevant criteria listed below.

Rules regulating the locations in which signs may be placed. These rules may distinguish between free-standing signs and those attached to buildings.

Rules distinguishing between lighted and unlighted signs.

Rules distinguishing between signs with fixed messages and electronic signs with messages that change.

Rules that distinguish between the placement of signs on private and public property.

Rules distinguishing between the placement of signs on commercial and residential property.

Rules distinguishing between on-premises and off-premises signs.

Rules restricting the total number of signs allowed per mile of roadway.

Rules imposing time restrictions on signs advertising a one-time event. Rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed.*

In addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech. See *Pleasant Grove City* v. *Summum*, 555 U. S. 460, 467–469 (2009). They may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots.

Properly understood, today's decision will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives.

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*Of course, content-neutral restrictions on speech are not necessarily consistent with the First Amendment. Time, place, and manner restrictions "must be narrowly tailored to serve the government's legitimate, content-neutral interests." *Ward* v. *Rock Against Racism*, 491 U. S. 781, 798 (1989). But they need not meet the high standard imposed on viewpoint- and content-based restrictions.

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[June 18, 2015]

JUSTICE BREYER, concurring in the judgment.

I join JUSTICE KAGAN's separate opinion. Like JUSTICE KAGAN I believe that categories alone cannot satisfactorily resolve the legal problem before us. The First Amendment requires greater judicial sensitivity both to the Amendment's expressive objectives and to the public's legitimate need for regulation than a simple recitation of categories, such as "content discrimination" and "strict scrutiny," would permit. In my view, the category "content discrimination" is better considered in many contexts, including here, as a rule of thumb, rather than as an automatic "strict scrutiny" trigger, leading to almost certain legal condemnation.

To use content discrimination to trigger strict scrutiny sometimes makes perfect sense. There are cases in which the Court has found content discrimination an unconstitutional method for suppressing a viewpoint. *E.g., Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 828–829 (1995); see also *Boos* v. *Barry*, 485 U. S. 312, 318–319 (1988) (plurality opinion) (applying strict scrutiny where the line between subject matter and viewpoint was not obvious). And there are cases where the Court has found content discrimination to reveal that rules governing a traditional public forum are, in fact, not a neutral way of fairly managing the forum in the interest of all speakers. *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 96 (1972) ("Once a forum is opened up to assembly or speaking by some groups, government may not prohibit others from assembling or speaking on the basis of what they intend to say"). In these types of cases, strict scrutiny is often appropriate, and content discrimination has thus served a useful purpose.

But content discrimination, while helping courts to identify unconstitutional suppression of expression, cannot and should not *always* trigger strict scrutiny. To say that it is not an automatic "strict scrutiny" trigger is not to argue against that concept's use. I readily concede, for example, that content discrimination, as a conceptual tool, can sometimes reveal weaknesses in the government's rationale for a rule that limits speech. If, for example, a city looks to litter prevention as the rationale for a prohibition against placing newsracks dispensing free advertisements on public property, why does it exempt other newsracks causing similar litter? Cf. *Cincinnati* v. *Discovery Network, Inc.*, 507 U. S. 410 (1993). I also concede that, whenever government disfavors one kind of speech, it places that speech at a disadvantage, potentially interfering with the free marketplace of ideas and with an individual's ability to express thoughts and ideas that can help that individual determine the kind of society in which he wishes to live, help shape that society, and help define his place within it.

Nonetheless, in these latter instances to use the presence of content discrimination automatically to trigger strict scrutiny and thereby call into play a strong presumption against constitutionality goes too far. That is because virtually all government activities involve speech, many of which involve the regulation of speech. Regulatory programs almost always require content discrimination. And to hold that such content discrimination triggers strict scrutiny is to write a recipe for judicial management of ordinary government regulatory activity.

Consider a few examples of speech regulated by government that inevitably involve content discrimination, but where a strong presumption against constitutionality has no place. Consider governmental regulation of securities, *e.g.,* 15 U. S. C. §78*l* (requirements for content that must be included in a registration statement); of energy conservation labeling-practices, *e.g.,* 42 U. S. C. §6294 (requirements for content that must be included on labels of certain consumer electronics); of prescription drugs, *e.g.,* 21 U. S. C. §353(b)(4)(A) (requiring a prescription drug label to bear the symbol "Rx only"); of doctor-patient confidentiality, *e.g.,* 38 U. S. C. §7332 (requiring confidentiality of certain medical records, but allowing a physician to disclose that the patient has HIV to the patient's spouse or sexual partner); of income tax statements, *e.g.,* 26 U. S. C. §6039F (requiring taxpayers to furnish information about foreign gifts received if the aggregate amount exceeds $10,000); of commercial airplane briefings, *e.g.,* 14 CFR §136.7 (2015) (requiring pilots to ensure that each passenger has been briefed on flight procedures, such as seatbelt fastening); of signs at petting zoos, *e.g.,* N. Y. Gen. Bus. Law Ann. §399–ff(3) (West Cum. Supp. 2015) (requiring petting zoos to post a sign at every exit "'strongly recommend[ing] that persons wash their hands upon exiting the petting zoo area'"); and so on.

Nor can the majority avoid the application of strict scrutiny to all sorts of justifiable governmental regulations by relying on this Court's many subcategories and exceptions to the rule. The Court has said, for example, that we should apply less strict standards to "commercial speech." *Central Hudson Gas & Elec. Corp.* v. *Public Service Comm'n of N. Y.*, 447 U. S. 557, 562–563 (1980). But I have great concern that many justifiable instances of "content-based" regulation are noncommercial. And, worse than that, the Court has applied the heightened "strict scrutiny" standard even in cases where the less stringent "commercial speech" standard was appropriate. See *Sorrell* v. *IMS Health Inc.*, 564 U. S. ___, ___ (2011) (BREYER, J., dissenting) (slip op., at ___). The Court has also said that "government speech" escapes First Amendment strictures. See *Rust* v. *Sullivan*, 500 U. S. 173, 193–194 (1991). But regulated speech is typically private speech, not government speech. Further, the Court has said that, "[w]hen the basis for the content discrimination consists entirely of the very reason the entire class of speech at issue is proscribable, no significant danger of idea or viewpoint discrimination exists." *R. A. V.* v. *St. Paul*, 505 U. S. 377, 388 (1992). But this exception accounts for only a few of the instances in which content discrimination is readily justifiable.

I recognize that the Court could escape the problem by watering down the force of the presumption against constitutionality that "strict scrutiny" normally carries with it. But, in my view, doing so will weaken the First Amendment's protection in instances where "strict scrutiny" should apply in full force.

The better approach is to generally treat content discrimination as a strong reason weighing against the constitutionality of a rule where a traditional public forum, or where viewpoint discrimination, is threatened, but elsewhere treat it as a rule of thumb, finding it a helpful, but not determinative legal tool, in an appropriate case, to determine the strength of a justification. I would use content discrimination as a supplement to a more basic analysis, which, tracking most of our First Amendment cases, asks whether the regulation at issue works harm to First Amendment interests that is disproportionate in light of the relevant regulatory objectives. Answering this question requires examining the seriousness of the harm to speech, the importance of the countervailing objectives, the extent to which the law will achieve those objectives, and whether there are other, less restrictive ways of doing so. See, *e.g., United States* v. *Alvarez*, 567 U. S. ___, ___–___ (2012) (BREYER, J., concurring in judgment) (slip op., at 1–3); *Nixon* v. *Shrink Missouri Government PAC*, 528 U. S. 377, 400–403 (2000) (BREYER, J., concurring). Admittedly, this approach does not have the simplicity of a mechanical use of categories. But it does permit the government to regulate speech in numerous instances where the voters have authorized the government to regulate and where courts should hesitate to substitute judicial judgment for that of administrators.

Here, regulation of signage along the roadside, for purposes of safety and beautification is at issue. There is no traditional public forum nor do I find any general effort to censor a particular viewpoint. Consequently, the specific regulation at issue does not warrant "strict scrutiny." Nonetheless, for the reasons that JUSTICE KAGAN sets forth, I believe that the Town of Gilbert's regulatory rules violate the First Amendment. I consequently concur in the Court's judgment only.

SUPREME COURT OF THE UNITED STATES

No. 13–502

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE KAGAN, with whom JUSTICE GINSBURG and JUSTICE BREYER join, concurring in the judgment.

Countless cities and towns across America have adopted ordinances regulating the posting of signs, while exempting certain categories of signs based on their subject matter. For example, some municipalities generally prohibit illuminated signs in residential neighborhoods, but lift that ban for signs that identify the address of a home or the name of its owner or occupant. See, *e.g.*, City of Truth or Consequences, N. M., Code of Ordinances, ch. 16, Art. XIII, §§11–13–2.3, 11–13–2.9(H)(4) (2014). In other municipalities, safety signs such as "Blind Pedestrian Crossing" and "Hidden Driveway" can be posted without a permit, even as other permanent signs require one. See, *e.g.*, Code of Athens-Clarke County, Ga., Pt. III, §7–4–7(1) (1993). Elsewhere, historic site markers—for example, "George Washington Slept Here"—are also exempt from general regulations. See, *e.g.*, Dover, Del., Code of Ordinances, Pt. II, App. B, Art. 5, §4.5(F) (2012). And similarly, the federal Highway Beautification Act limits signs along interstate highways unless, for instance, they direct travelers to "scenic and historical attractions" or advertise free coffee. See 23 U. S. C. §§131(b), (c)(1), (c)(5).

Given the Court's analysis, many sign ordinances of that kind are now in jeopardy. See *ante*, at 14 (acknowledging that "entirely reasonable" sign laws "will sometimes be struck down" under its approach (internal quotation marks omitted)). Says the majority: When laws "single[] out specific subject matter," they are "facially content based"; and when they are facially content based, they are automatically subject to strict scrutiny. *Ante*, at 12, 16–17. And although the majority holds out hope that some sign laws with subject-matter exemptions "might survive" that stringent review, *ante*, at 17, the likelihood is that most will be struck down. After all, it is the "rare case[] in which a speech restriction withstands strict scrutiny." *Williams-Yulee* v. *Florida Bar*, 575 U. S. ___, ___ (2015) (slip op., at 9). To clear that high bar, the government must show that a content-based distinction "is necessary to serve a compelling state interest and is narrowly drawn to achieve that end." *Arkansas Writers' Project, Inc.* v. *Ragland*, 481 U. S. 221, 231 (1987). So on the majority's view, courts would have to determine that a town has a compelling interest in informing passersby where George Washington slept. And likewise, courts would have to find that a town has no other way to prevent hidden-driveway mishaps than by specially treating hidden-driveway signs. (Well-placed speed bumps? Lower speed limits? Or how about just a ban on hidden driveways?) The consequence—unless courts water down strict scrutiny to something unrecognizable—is that our communities will find themselves in an unenviable bind: They will have to either repeal the exemptions that allow for helpful signs on streets and sidewalks, or else lift their sign restrictions altogether and resign themselves to the resulting clutter.*

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*Even in trying (commendably) to limit today's decision, JUSTICE ALITO's concurrence highlights its far-reaching effects. According to JUSTICE ALITO, the majority does not subject to strict scrutiny regulations of "signs advertising a one-time event." *Ante*, at 2 (ALITO, J., concurring). But of course it does. On the majority's view, a law with an exception for such signs "singles out specific subject matter for

Although the majority insists that applying strict scrutiny to all such ordinances is "essential" to protecting First Amendment freedoms, *ante*, at 14, I find it challenging to understand why that is so. This Court's decisions articulate two important and related reasons for subjecting content-based speech regulations to the most exacting standard of review. The first is "to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail." *McCullen* v. *Coakley*, 573 U. S. ___, ___–___ (2014) (slip op., at 8–9) (internal quotation marks omitted). The second is to ensure that the government has not regulated speech "based on hostility—or favoritism—towards the underlying message expressed." *R. A. V.* v. *St. Paul*, 505 U. S. 377, 386 (1992). Yet the subject-matter exemptions included in many sign ordinances do not implicate those concerns. Allowing residents, say, to install a light bulb over "name and address" signs but no others does not distort the marketplace of ideas. Nor does that different treatment give rise to an inference of impermissible government motive.

We apply strict scrutiny to facially content-based regulations of speech, in keeping with the rationales just described, when there is any "realistic possibility that official suppression of ideas is afoot." *Davenport* v. *Washington Ed. Assn.*, 551 U. S. 177, 189 (2007) (quoting *R. A. V.*, 505 U. S., at 390). That is always the case when the regulation facially differentiates on the basis of viewpoint. See *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). It is also the case (except in nonpublic or limited public forums) when a law restricts "discussion of an entire topic" in public debate. *Consolidated*

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differential treatment" and "defin[es] regulated speech by particular subject matter." *Ante*, at 6, 12 (majority opinion). Indeed, the precise reason the majority applies strict scrutiny here is that "the Code singles out signs bearing a particular message: the time and location of a specific event." *Ante*, at 14.

Edison Co. of N. Y. v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537, 539–540 (1980) (invalidating a limitation on speech about nuclear power). We have stated that "[i]f the marketplace of ideas is to remain free and open, governments must not be allowed to choose 'which issues are worth discussing or debating.'" *Id.*, at 537–538 (quoting *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 96 (1972)). And we have recognized that such subject-matter restrictions, even though viewpoint-neutral on their face, may "suggest[] an attempt to give one side of a debatable public question an advantage in expressing its views to the people." *First Nat. Bank of Boston* v. *Bellotti*, 435 U. S. 765, 785 (1978); accord, *ante*, at 1 (ALITO, J., concurring) (limiting all speech on one topic "favors those who do not want to disturb the status quo"). Subject-matter regulation, in other words, may have the intent or effect of favoring some ideas over others. When that is realistically possible—when the restriction "raises the specter that the Government may effectively drive certain ideas or viewpoints from the marketplace"—we insist that the law pass the most demanding constitutional test. *R. A. V.*, 505 U. S., at 387 (quoting *Simon & Schuster, Inc.* v. *Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 116 (1991)).

But when that is not realistically possible, we may do well to relax our guard so that "entirely reasonable" laws imperiled by strict scrutiny can survive. *Ante*, at 14. This point is by no means new. Our concern with content-based regulation arises from the fear that the government will skew the public's debate of ideas—so when "that risk is inconsequential, . . . strict scrutiny is unwarranted." *Davenport*, 551 U. S., at 188; see *R. A. V.*, 505 U. S., at 388 (approving certain content-based distinctions when there is "no significant danger of idea or viewpoint discrimination"). To do its intended work, of course, the category of content-based regulation triggering strict scrutiny must sweep more broadly than the actual harm; that category exists to create a buffer zone guaranteeing that the government cannot favor or disfavor certain viewpoints. But that buffer zone need not extend forever. We can administer our content-regulation doctrine with a dose of common sense, so as to leave standing laws that in no way implicate its intended function.

And indeed we have done just that: Our cases have been far less rigid than the majority admits in applying strict scrutiny to facially content-based laws—including in cases just like this one. See *Davenport*, 551 U. S., at 188 (noting that "we have identified numerous situations in which [the] risk" attached to content-based laws is "attenuated"). In *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789 (1984), the Court declined to apply strict scrutiny to a municipal ordinance that exempted address numbers and markers commemorating "historical, cultural, or artistic event[s]" from a generally applicable limit on sidewalk signs. *Id.*, at 792, n. 1 (listing exemptions); see *id.*, at 804–810 (upholding ordinance under intermediate scrutiny). After all, we explained, the law's enactment and enforcement revealed "not even a hint of bias or censorship." *Id.*, at 804; see also *Renton* v. *Playtime Theatres, Inc.*, 475 U. S. 41, 48 (1986) (applying intermediate scrutiny to a zoning law that facially distinguished among movie theaters based on content because it was "designed to prevent crime, protect the city's retail trade, [and] maintain property values . . . , not to suppress the expression of unpopular views"). And another decision involving a similar law provides an alternative model. In *City of Ladue* v. *Gilleo*, 512 U. S. 43 (1994), the Court assumed *arguendo* that a sign ordinance's exceptions for address signs, safety signs, and for-sale signs in residential areas did not trigger strict scrutiny. See *id.*, at 46–47, and n. 6 (listing exemptions); *id.*, at 53 (noting this assumption). We did not need to, and so did not, decide the level-of-scrutiny question because the law's breadth made it unconstitutional under any standard.

The majority could easily have taken *Ladue*'s tack here. The Town of Gilbert's defense of its sign ordinance—most notably, the law's distinctions between directional signs and others—does not pass strict scrutiny, or intermediate scrutiny, or even the laugh test. See *ante*, at 14–15 (discussing those distinctions). The Town, for example, provides no reason at all for prohibiting more than four directional signs on a property while placing no limits on the number of other types of signs. See Gilbert, Ariz., Land Development Code, ch. I, §§4.402(J), (P)(2) (2014). Similarly, the Town offers no coherent justification for restricting the size of directional signs to 6 square feet while allowing other signs to reach 20 square feet. See §§4.402(J), (P)(1). The best the Town could come up with at oral argument was that directional signs "need to be smaller because they need to guide travelers along a route." Tr. of Oral Arg. 40. Why exactly a smaller sign better helps travelers get to where they are going is left a mystery. The absence of any sensible basis for these and other distinctions dooms the Town's ordinance under even the intermediate scrutiny that the Court typically applies to "time, place, or manner" speech regulations. Accordingly, there is no need to decide in this case whether strict scrutiny applies to every sign ordinance in every town across this country containing a subject-matter exemption.

I suspect this Court and others will regret the majority's insistence today on answering that question in the affirmative. As the years go by, courts will discover that thousands of towns have such ordinances, many of them "entirely reasonable." *Ante*, at 14. And as the challenges to them mount, courts will have to invalidate one after the other. (This Court may soon find itself a veritable Supreme Board of Sign Review.) And courts will strike down those democratically enacted local laws even though no one—certainly not the majority—has ever explained why the vindication of First Amendment values requires that result. Because I see no reason why such an easy case calls for us to cast a constitutional pall on reasonable regulations quite unlike the law before us, I concur only in the judgment.

§ 154.011 SIGNS.

(A) *Findings.*

1. Exterior signs have a substantial impact on the character and quality of the environment.

2. Signs provide an important medium through which individuals may convey a variety of messages.

3. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.

(B) *Purpose.*

1. The city has a governmental interest in establishing a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe and attractive community, and the need for effective communications including business identification. It is the intent of this section to promote the health, safety, and general welfare of the city, while recognizing the need to maintain an attractive and appealing appearance of property in the city. Sign regulations, including, but not limited to those which control the duration of display, number, height, width, total area, methods of support, placement, materials, illumination, and other features are established. Sign regulations are intended to:

(a) Promote an attractive, harmonious environment that creates a sense of place and prevent conditions, which have undesirable impacts on surrounding properties.

(b) Ensure regulations that allow zoning districts to function effectively and efficiently.

(c) Protect property values, public investment and the overall character of the city.

(d) Promote traffic and pedestrian safety, prevent visual clutter and pollution, and design, construct and install signs in a manner that does not adversely impact public safety.

(e) Ensure signs are compatible and proportioned to the scale of their surroundings.

(f) Ensure adequate means of expression as allowed by the first amendment of the U.S. Constitution and other federal, state, and local laws.

(g) To permit safe, effective, efficient and aesthetic means of communication using signs.

(h) recognize the need to maintain an attractive and appealing appearance of property in the city;

(i) Ensure adequate identification of each business while minimizing the tendency for signs to compete for attention with excessive wording or flashy visual stimulation;

(j) To ensure expression of a business' individuality while at the same time ensuring architectural harmony, compatibility and unity of the streetscape.

(C) *General provisions.* The following regulations shall apply to all signs permitted in all districts:

1. *Conformance.* All signs except official traffic and street signs shall conform to the provisions of this section and any other ordinance or regulations of the city.

2. *Proximity to warning and regulatory signs and signals.* No sign shall be located which will:

(a) Interfere with the ability of any driver or pedestrian to see any street or highway sign, traffic sign or signal or crossroad or crosswalk.

(b) Will distract drivers or offer any confusion to any street or highway sign, traffic sign or signal.

3. *Sign setbacks.* All signs unless specifically noted otherwise, shall maintain a ten foot setback from all lot lines. The city may require a greater or lesser setback due to public safety reasons, which may include the following conditions: vehicle sight distance, distance from intersection, designation of adjacent right-of-way.

4. *Sign integration.* Signs are to be coordinated in their design, material and locational placement with the building design and architecture in terms of the materials and placement of such sign.

(D) *Permitted signs by zoning district.* The sign standards listed by district and lot size in Table 10 shall apply in determining certain residential and business sign areas allowed.

(E) *Downtown Overlay.*

1. *Purpose.*

(a) Preserve cultural aspects of the historic commercial district.

(b) Encourage the physical development of the city as intended by the city's Comprehensive Plan and Downtown Design manual/plans.

(c) Encourage the harmonious development and appearance of structures and property within the district.

(d) Maintain and improve property values of the district and throughout the city.

2. *Types/design of signs allowed.* The following types of signs are allowed when meeting the requirements of the Downtown Design Manual:

(a) Permanently painted window signage no more than 20% of the window area.

(b) Wall signs.

(c) Projecting signs.

(d) Neon light signs more than 20% of the window area or building exterior wall area.

(e) Banners as temporary signs for a period greater than 30 days in one calendar year or two 15 day periods within one calendar year.

(f) Three dimensional and flat projecting signs with a maximum space between signage and building face of one foot.

(g) Rooftop signs used in a parapet as indicated in the Downtown Design Manual.

(h) Temporary signage up to 20% of the window area or wall surface area.

(i) A-frame or sandwich board sidewalk signs.

(j) Permanent freestanding signs when approved within a design plan for the property.

3. *Prohibited signs.*

(a) Flashing lights and bare bulb lights.

(b) Fiberglass and plastic signs, except A-frame or sandwich board sidewalk signs.

(c) Internally illuminated signs (not including neon or marquee signs) are not allowed.

4. *Placement of signs.* Signs shall not cover architectural detail on the building, windows, or cornices.

5. *Lighting of signs.* Source of the light must be directed at the sign and must be shielded (not be visible to pedestrians, motorists, or neighboring residents or businesses).

(F) *Comprehensive (master) sign programs. Multi-tenant building.*

1. The property owner shall be responsible for allocating the allowable sign area among the tenants of multi-tenant buildings. In the event that the owner does not allocate the sign area, the city may do so based on the relative floor area or tenant frontage.

2. Unified shopping center/multiple-tenant buildings. In a unified shopping center or multiple-tenant building, the total surface area of all individual signs on the buildings shall not exceed the maximum square footage requirements outlined in Table 10. As a part of this maximum square footage the center or building may erect one freestanding or monument sign, which identifies the name and location of the building and its tenants. For shopping centers or multiple tenant buildings, one freestanding or monument sign may be permitted per street right-of-way, provided it meets the requirements of maximum surface area and height outlined in Table 10.

3. Master sign plan. No permit shall be issued for an individual sign requiring a permit in a commercial and/or industrial zoning district where more than one business or industry will be located until a master signage plan has been approved by the city. The master signage plan is intended to control total sign area and sign placement so as to help eliminate incongruities as tenants/occupants change.

4. The owner/agent proposing a commercial or industrial development plan, site plan, and/or planned unit development with more than one individual business or tenant any shall submit a master signage plan containing the following information:

(a) A scaled site plan showing location of buildings, parking lots, driveways and landscaped areas and an accurate indication on the site plan of the proposed location of present and future signs of any type, whether requiring a permit or not.

(b) Scaled color drawings clearly showing location of sign on building elevation.

(c) Computation of the maximum total sign area, the maximum area for individual signs and the height of signs.

(d) The maximum numbers of signs affixed to a building by each business within the building shall be controlled by the master signage plan.

(e) Other provisions of the plan may contain such other restrictions as the owner of the development or building may reasonably determine.

(f) The plan shall be signed by all owners or their authorized agents in such form as required by the city or as a part of applicable and active restrictive covenants.

(g) A master signage plan may be amended by filing administratively a new master signage plan that conforms to all requirements of this chapter.

(h) After approval of a master signage plan, no sign shall be erected, placed, painted or maintained, except in conformance with approved master signage plan and such plan may be enforced in the same way as provisions of this chapter. In case of any conflict between the provisions of such a plan and this Code, the Code shall govern.

(G) *Planned Unit Development.* Permanent and temporary signs are regulated according to the standards for the corresponding land use and zoning category as stated in this section. A sign plan with differing requirements may be approved by the Zoning Administrator. Factors which will be used in determining if an individual Planned Unit Development sign plan will be considered include the following:

1. The development includes a structure three stories or greater.

2. The development includes multiple structures and/or substantial site area.

3. The development includes mixed uses.

4. A sign plan is uniquely adapted to address the visibility needs of a development while remaining consistent with the intent of this section to direct high quality signage.

5. The sign plan includes permanent sign covenants which can be enforced by the city.

(H) *Exemptions to the sign ordinance.* The following types of signs are exempted from all the provisions of this section and do not require a sign permit, except for construction and safety regulations and the following standards:

1. *Replacing copy*. The changing of the advertising copy or message on an approved sign which are specifically designed for the use of replaceable copy.

2. *Maintenance.* Painting, repainting, cleaning and other normal maintenance and repair of a sign structure unless a structural change is made.

3. Signs having an area of six square feet or less, but no more than one per business nor more than two per lot, provided the sign area does not exceed the area allowed by this section.

4. *Indoor signs.* Signs that are completely within a building and are not visible from the outside of said building.

5. Sculptures, fountains, mosaics, murals, and other works of art that do not incorporate business identification or commercial messages.

6. Signs installed and maintained on bus benches and/or shelters within city right-of-way, pursuant to a franchise authorized by the City Council.

7. Seasonal decorations for display on private property.

8. *Non commercial signs.* Signs of a noncommercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of public duty, such as directional signs, regulatory signs, warning signs, incidental and informational signs.

9. *Traffic signage within the public right-of-way.* Permanent governmental signs for control of traffic and other regulatory/notification purposes as governed under Manual on Uniform Traffic Control Devices (MUTCD) and MN.MUTCD.

10. Non-electric bulletin boards not exceeding 12 square feet in area for each public, charitable, or religious institution, when the same are located on the premises of said institutions.

11. *Integral signs.* Names of buildings, dates of erection, monumental citations, commemorate tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the structure.

12. *Window signs.* In the MU-1, MU-2, and MU-3 Districts, window signs as defined in this section shall be permitted in a window. The total area of all window signs shall not exceed 20% of the window glass area, to be calculated separately for each side of the building. Neon signs are permitted on the building exterior and in display windows as long as they do not cover more than 20% of the window area or building exterior.

13. *Private traffic direction.* Signs directing traffic movement onto a premise or within a premises, not exceeding eight square feet in area for each sign. Illumination of these signs shall conform to this section, except that standard traffic signal light devices may be used if needed. Horizontal direction signs on and flush with paved areas are exempt from these standards.

14. *Yard signs.* Temporary yard signs not exceeding six square feet in area located on the subject property and limited to one such sign for each street frontage of a home, lot, parcel or tract under two acres in area other than those included in this section. Signs shall be removed within seven days.

15. Off-premise directional signs may be placed on private property or on the right-of-way adjacent to said private property, with the permission of the abutting property owners. The signs shall be displayed in such a manner as to not constitute a traffic hazard or impair or impede pedestrians, bicycles, or disabled persons. Signs shall not exceed three square feet in area and four in number. The top of such signs shall not exceed three feet in height.

16. *Political signs.* Non-commercial signs of any size may be posted in any number from 46 days before the state primary in a state general election year until ten days following the state general election, and in the case of a special election, from 30 days before the special election to seven days after a special election.

17. *National, state, county or city flags.* Nothing in this section shall in any way prohibit or limit the display of national, state, county or city flags.

18. *Decorative flags.* May be part of a permanent sign plan provided there is a maintenance schedule and it is observed. Each business is allowed up to two per business. They must not interfere with pedestrian or vehicular sight-lines or mobility.

19. *Address signs.* A minimum of one address sign shall be required. Such sign shall be of sufficient size to be legible from the nearest street yet shall not exceed two square feet in area.

(I) *Prohibited signs.* The following signs are prohibited in all districts:

1. Advertising signs (billboards).

2. Advertising or business signs on or attached to mobile equipment (but not a portable sign), where signing is a principal use of the equipment on either a temporary or permanent basis.

3. Signs mounted on chimneys, rooftop equipment, towers, flagpoles, cooling towers, elevator penthouses, commercial antennas, communication towers, belfries, church spires and cupolas.

4. Signs which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal or which obstruct the view in any direction at a street or road intersection.

5. Signs which are pasted or attached to utility poles, trees, fences, other signs or their own poles which are not specifically allowed by this section.

6. *Right-of-way signs.* Signs on or over the municipal, county or state public right-of-way, unless the city grants permission or as otherwise specified in this section.

7. Roof signs, except within the MU-1 District, as specifically stated within this section. Including signs mounted on a roof surface or projecting above the roof line of a structure if either attached to the structure or cantilevered over the structure.

8. *Flashing signs.* Signs with zooming, twinkling, or flashing illumination.

9. Flashing lights and bare bulb lights.

10. Rotating signs, flashing signs and motion signs, except time and temperature and civic information.

11. Flashing or rotating signs resembling emergency vehicles or equipment of motion.

12. Signs which swing or otherwise noticeably move, or have parts which so move, as a result of wind pressure because of the manner of suspension or attachment.

13. Beacon lights or search lights as a sign or for advertising purposes.

14. Internally illuminated signs (not including neon or marquee signs).

15. *Monument signs within the MU-1 District.* Monument signs and mobile monument signs except for civic uses.

(J) *Temporary signs.* All temporary signs require a sign permit. The following signs are permitted:

1. *Temporary signs.* Temporary signs shall be set back no less than ten feet from the property line up to a sign area of 30 square feet. Such signs shall be allowed no more than 21 days prior to the event or function and must be removed within three days after the event or function. Such signs may be illuminated in accordance with the restrictions set forth in this section. If building mounted, these signs shall be flat wall signs and shall not project above the roof line. If ground mounted, the top shall be no more than six feet above ground level.

2. *Street banners.* Street banners advertising a public or civic event may be displayed 21 days prior to and three days after the event, but may not hang for a period greater than 30 days.

3. *Decorative banners.* Decorative banners may be displayed 21 days prior to and three days after the event, but may not hang for a period greater than 30 days.

4. *Banners, pennants, whirling devices, balloons.* Banners, pennants, whirling devices and balloons or any such sign resembling the same are allowed when used as an integral part of the design of the building or when used in conjunction with grand openings (the initial commencement of business) or when allowed by the provisions of this section. In the case of grand openings, banners and pennants shall be allowed for the week (maximum ten days) of said grand opening. In other cases, a permit shall be issued for ten day periods, but limited to three times a year per business. A separate occasion begins no sooner than 30 days after expiration of the previous approval and removal of the previous sign, whichever is longer.

5. *A-frame (sandwich or tent signs).* One sign allowed per business, ten square feet per side, four feet in height. Signs shall not be left on the sidewalk overnight and must leave a minimum of six feet of clear walkway on the sidewalk.

6. *Painted window signs.* Signs must not consume more than 20% of the window area. Permanently painted window signage is encouraged if compatible with the architecture of the building as determined by the Zoning Administrator.

(K) *Computations.*

1. *Sign area measurement.*

(a) Freestanding signs. The area within the sign frame shall be used to calculate the square footage.

(b) Wall, window, or other structural surface without a sign frame. The area without a sign frame shall be determined by drawing a box around the outermost periphery of letters or graphics. The square footage shall be that of the box surrounding the said letters or graphics.

(c) Each surface used to display a message shall be measured as a separate sign and shall be calculated in the overall square footage.

2. *Sign height measurement.* The height of a sign shall be measured from the existing grade except for the following: if elevations of the centerline of the nearest frontage street are provided by the sign applicant, this point of elevation may be used rather than existing grade.

3. *Sign as a structure.* A sign is a structure or part of a structure for the purpose of applying yard regulations.

4. *Setbacks.* Within all zoning districts, signs shall be setback a minimum of ten feet from all property lines.

(L) *Illumination.*

1. The light from any illuminated sign or from any light source, including the interior of a building, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Light shall not shine or reflect on or into a residential structure.

2. No sign shall have blinking, flashing or fluttering lights or other illuminating devices or reflective fluttering which have a changing light intensity, brightness or color or which are so constructed and operated as to create an appearance or illusion of writing or printing. An exception may be granted by the city for signs providing civic information or public service information such as date, time, temperature and other weather devices. Nothing contained in this section shall, however, be construed as preventing the use of lights or decorations related to religious, civic and patriotic festivities.

3. If the sign is illuminated at night, the source of the light must be directed at the sign and must not be visible to pedestrians, motorists, or neighboring residents or businesses.

4. No exposed reflective type bulbs and no strobe lights, incandescent lamps or zip flasher which exceed 7.5 watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.

5. When necessary to prevent a nuisance, the city shall specify the hours during which illuminated signs may be kept lighted.

(M) *Sign maintenance.*

1. *Maintenance*. All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition and in compliance with all applicable building code requirements.

(a) Painting. The owner or any sign shall be required to have such a sign properly painted including all parts and supports of the sign, unless such parts or supports are galvanized or otherwise treated to prevent rust. This shall also apply to murals.

(b) Area around signs. The owner, or lessee of any sign or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area between the sign and the street and the area within six feet from the ends of the sign, free from refuse.

(c) Unsafe for dangerous signs. Any sign which becomes structurally unsafe or endangers the safety or a building or premises or endangers the public safety shall be considered a public nuisance and shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure or land upon which the sign is located, within ten days after written notification from the Zoning Administrator.

2. *Abandoned signs.* A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it identifies is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the city shall remove it in accordance with this section. These removal provisions shall not apply where a succeeding owner or lessee conducts the same type of business and agrees to maintain the signs as provided in this section or changes copy on the signs to advertise the type of business being conducted on the premises and provided the signs comply with other provisions of this section. Signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than 30 days from the date of vacancy.

(N) *Nonconforming signs.*

1. The Community Development Department shall order the removal of any sign erected or maintained in violation of city ordinances as they existed prior to July 21, 1999, the time of the adoption of the provisions of this chapter. Removal shall be in accordance with this subsection.

2. Any nonconforming temporary, movable or portable sign existing on July 21, 1999, the time of the adoption of the provisions of this chapter shall be made to comply with the requirements set forth herein or shall be removed within 60 days after the adoption of this chapter.

3. Other signs existing at the time of the enactment of this chapter and not conforming to its provisions, but which did conform to previous laws and ordinances when constructed or placed shall be regarded as nonconforming signs which may be continued if properly repaired and maintained as provided in this chapter and if in conformance with other ordinances of the city. If said signs are not continued with conformance of above, they shall be removed in accordance with this chapter.

4. All nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this chapter.

5. Business signs on the premises of a nonconforming building or use may be continued, but such signs shall not be increased in number, area, height or illumination. New signs may be erected only upon the complete removal of all other nonconforming signs existing at the time of the adoption of this chapter.

6. No sign erected before the passage of this chapter shall be rebuilt, altered or moved to a new location without being brought into compliance with the requirements of this chapter.

(O) *Permits.*

1. *Permit requirements.* No sign shall be erected, altered or relocated without a permit issued by the city. Any sign involving electrical components shall be wired by a licensed electrician, and the electrical components used shall bear an Underwriters Laboratories, Inc. seal of inspection.

2. *Application.* The permit application shall be signed by the applicant. When the applicant is any person other than the owner of the property, it shall also be signed by the owner of the property.

3. In addition to the above application, an agreement must be entered into with the city which would authorize and direct the city to:

(a) Remove and dispose of, at the owner's expense, any sign and sign structure on which a permit has been issued but not renewed, by the owner and if not removed by the owner within a 30 day period following the expiration of the permit.

(b) Remove, at the expense of the owner, the sign and sign structure, where maintenance is required but not furnished, after a hearing and a ten day notice to the owner specifying the maintenance required by the city.

4. The issuance of a permit may also be subject to conditions in order to promote a reasonable combination of signs and to promote conformity with the character and use of adjoining property.

5. *Fees.* All fees shall be set by City Council Fee Schedule.

6. *Licenses and bonds.*

(a) No person, firm or corporation shall engage the business of erecting signs under this section unless licensed to do so by the Council. Such license may be granted by the Council after written application to the city, accompanied by an annual license fee to be determined by Council ordinance. This license may be terminated by the Council at any time for cause. No license shall take effect until the licenses shall file with the city a certificate of insurance, evidencing the holding of public liability insurance in the limits and coverage set by the city.

(b) Applicants not engaged in the business of erecting signs who choose to construct and erect a sign on their own property shall be exempt from the above provisions for license and certificate of insurance.

7. *Nullification.* A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six months after the date of the permit. A permit may be renewed, and no additional fee shall be collected for the renewal.

8. *Building Official.* The Building Official shall issue all permits for construction, alteration, and erection or signs in accordance with the provisions of this section and related chapters and titles of the City of North St. Paul City Code. In addition, all signs, where appropriate, shall conform to the National Electric Code and the National Electrical Safety Code.

(P) *Enforcement.*

1. *Inspection.* Any sign for which a permit is required shall be inspected periodically by the cityfor compliance with this section and all other applicable laws.

2. *Removal of signs.* The city shall order the removal of any sign erected or maintained in violation of this section. Ten days' notice in writing shall be given to the owner of such sign, or of the building, structure or premises on which such sign is located, to either bring the sign into compliance with the ordinance or effect its removal. Upon failure to remove the sign or to comply with this notice, the city forces shall remove the sign. The city forces shall remove the sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public. Any costs of removal incurred by the city shall be assessed to the owner of the property on which such sign is located and may be collected in the manner of ordinary debt or in the manner of faxes with all costs assessed against the property.

3. Approved sign plans. The city may enforce, in the same manner as the requirements of this section, the terms of a

sign plan or sign covenants which it has approved. Any violation of an approved sign plan or sign covenants is a misdemeanor.

(Q) *Construction requirements.* All signs shall be constructed in such a manner and of such material so as to be considered safe and substantial. Nothing in this section shall be interpreted as authorizing the erection or construction of any sign not permitted under this subchapter.

(R) *Substitution clause.* Any sign allowed under this section may contain, in lieu of any other message or copy, any lawful noncommercial message or copy.

(S) *Severability.* If any section, subsection, paragraph, sentence, clause or phrase of this section or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court or competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this section or its application to any other person or situation.

(Ord. 739, passed 8-18-2015)

Table 10. Signs - Mixed Use Districts

<table>
<tr><th colspan="2">District</th><th>Max sign height</th><th>Window signs</th><th>Wall signs</th><th>Monument sign

max sign face</th><th>Projecting sign

max sign face</th><th>Free-standing signs

max sign face</th><th>Awning/ canopy signs</th><th>Sq. ft. max aggregate or total sign area</th></tr>
<tr><td rowspan="3">MU-1</td><td>0- 10,000 sq ft</td><td rowspan="5">25 ft</td><td rowspan="5">20% of the window glass area.</td><td>10% of the wall area or 80 sq ft whichever is less.</td><td>Institutional Use: 75 sq ft</td><td rowspan="5">12 sq ft, 3 ft width max</td><td>(1) sign is allowed per building street frontage. 30 sq ft.</td><td rowspan="5">Max Length: 25 ft

Min Clearance: 8 ft Max

Max Height: 12 ft

Min Depth: 3 ft

Max Depth 6 ft</td><td>150 sq ft</td></tr>
<tr><td>10,000- 20,000 sq ft</td><td>10% of the wall area or 90 sq ft whichever is less.</td><td>Institutional Use: 100 sq ft</td><td>(1) sign is allowed per building street frontage. 60 sq ft.</td><td>200 sq ft</td></tr>
<tr><td>OVER 20,000 sq ft</td><td>10% of the wall area or 100 sq ft whichever is less.</td><td>Institutional Use: 150 sq ft</td><td>(1) sign is allowed per building street frontage. 90 sq ft.</td><td>250 sq ft</td></tr>
<tr><td rowspan="2">MU-2</td><td>0- 20,000 sq ft</td><td>10% of the wall area or 90 sq ft whichever is less.</td><td>40 sq ft</td><td>(1) sign is allowed per building street frontage. 60 sq ft.</td><td>200 sq ft</td></tr>
<tr><td>OVER 20,000 sq ft</td><td>10% of the wall area or 100 sq ft whichever is less.</td><td>80 sq ft</td><td>(1) sign is allowed per building street frontage. 90 sq ft.</td><td>250 sq ft</td></tr>
<tr><td rowspan="3">MU-3</td><td>0- 50,000 sq ft</td><td rowspan="3">25 ft</td><td rowspan="3">20% of the window glass area.</td><td>2 sq ft for every linear foot of front of bldg. Max 150 sq ft</td><td>100 sq ft</td><td rowspan="3">12 sq ft, 3 ft width max</td><td>(1) sign is allowed per building street frontage. 100 sq ft.</td><td rowspan="3">Max Length: 25 ft

Min Clearance: 8 ft Max

Max Height: 12 ft

Min Depth:</td><td>200 sq ft</td></tr>
<tr><td>50,000- 100,000 sq ft</td><td>2 sq ft for every linear foot of front of bldg. Max 200 sq ft</td><td>150 sq ft</td><td>(1) sign is allowed per building street frontage. 120 sq ft.</td><td>250 sq ft</td></tr>
<tr><td></td><td></td><td></td><td></td><td></td></tr>
</table>

	100,000 - 200,000 sq ft			2 sq ft for every linear foot of front of bldg. Max 250 sq ft	150 sq ft		(1) sign is allowed per building street frontage. 140 sq ft.	3 ft Max Depth 6 ft	300 sq ft
	OVER 200,000 sq ft			2 sq ft for every linear foot of front of bldg. Max 300 sq ft	200 sq ft		(1) sign is allowed per building street frontage. 160 sq ft.		400 sq ft

Table 11. Signs - Residential Districts

District	Institutional use sign (parks, playgrounds, churches, libraries, municipal bldgs, etc)	Max total sign area allowed	Max sign height	Monument sign max sign face	Sq. ft. max aggregate or total sign area
R-1	60 sq ft	2 sq ft name plate	6 ft	—	Residential: 2 sq ft name plate Institutional: 60 sq ft
R-2					
R-3		24 sq ft		24 sq ft	Residential: 24 sq ft Institutional: 60 sq ft

(Am. Ord. 783, passed 4-16-2019; Am. Ord. 792, passed 6-2-2020)

TABLE 4-3: FUTURE LAND USE CATEGORY SUMMARY AND COMPARISON.

2030 Land Use Category	2030 Plan Density Range		2040 Land Use Category	2040 Plan Density Range	
	Min	Max		Min	Max
Residential Low: Single-family detached uses, duplexes and townhomes left as the result of older infill housing.	3	5.5	**Low Density Residential:** Single-family detached uses, duplexes and townhomes left as the result of older infill housing.	3	5.5
Residential Medium: A mix of single-family dwellings and townhouses.	5.6	7.3	**Medium Density Residential:** Townhomes and other small-scale attached residential structures	~~5.6~~6	12
Residential High: Apartments or condominiums in multi-story buildings.	7.4	22	**Multi-Family Residential**	12	22
Downtown Commercial: Central business district, some mixed use, residential on upper floor			**Downtown Mixed Use:** Established to reflect and enhance the small-town and pedestrian friendly atmosphere while encouraging development and redevelopment consistent with the historic character. Encourage both vertical and horizontal mixed use. High density residential is appropriate.	12	22
General Retail: For locations outside of the downtown where retail uses are to be allowed.			**Transitional Mixed Use:** Established to sustain and enhance the viability of commercial nodes that serve the needs of residents in adjacent neighborhoods while encouraging development and redevelopment consistent with the character and scale of those areas.	12	22
Diversified District: allows for coordinated and harmonious development of functionally related uses including high density residential (up to 36 units per acre), office, commercial, entertainment – recreation, quality industrial, and public facilities. The standards will ensure quality design, superior aesthetics, protection of the uses by minimizing adverse effects, adequate provisions for open space, and suitable transportation (including transit, transit stops, pedestrian-ways and trails with links to downtown).	12	36	**Corridor Mixed Use:** Established to encourage the development or redevelopment of mixed-use centers that combine retail development with a variety of housing, offices, live-work spaces, employment activities, and other complementary uses. This district will develop with a minimum of 30% residential component throughout the district.	12	40
Parks			Parks		

NET RESIDENTIAL DENSITY

Net density is important in ensuring the region's orderly and efficient growth, and to provide essential services that benefit the metro area. Communities and land within the Metropolitan Urban Service Area (MUSA) receive a higher level of regional services and investments than those in the Rural Service Area, such as regional wastewater services, regional highways, transit service, the Regional Parks System, and programs that support redevelopment. In return, the Council expects jurisdictions in the MUSA to plan for and build the higher levels of development that economically support those regional services.

The region is able to provide cost-effective infrastructure and services when it is able to anticipate where, when, and to what extent growth will occur. The Council establishes overall density expectations for communities based on their Community Designation with additional expectations near transit stations. Density thresholds are based on an understanding of future regional growth, market demand in different parts of the region, existing development patterns and redevelopment opportunities, existing planned land uses in local comprehensive plans, and regional policies to support the concentration of higher density growth around transit stations.

Setting minimum average densities for new development provides communities with the flexibility to determine which areas in their community are best suited for higher or lower density development under the framework of meeting that overall minimum on available developable lands.

OVERALL DENSITY EXPECTATIONS FOR NEW GROWTH, DEVELOPMENT, AND REDEVELOPMENT	
Metropolitan Urban Service Area: Minimum Average Net Density	
Urban Center	20 units/acre
Urban	10 units/acre
Suburban	5 units/acre
Suburban Edge	3-5 units/acre
Emerging Suburban Edge	3-5 units/acre

HOW DO WE CALCULATE NET DENSITY?

The Council measures minimum net density to support forecasted growth by taking the minimum number of planned housing units and dividing by the net acreage. Net acreage does not include land covered by wetlands, water bodies, public parks and trails, public open space, arterial road rights-of-way, and other undevelopable acres identified in or protected by local ordinances such as steep slopes.

NET RESIDENTIAL DENSITY GUIDELINES

What can be netted out from Gross Acres	Important notes	What cannot be netted out
Wetlands and Water Bodies	Defined as public waters and wetlands consistent with state delineation practices, buffers may also be included*	Setbacks from water bodies, storm ponds, NURP ponds
Public Parks and Open Space	Must be public or in permanent open space (federal, state, regional, local) or land held in perpetual open space in an open space easement.	Privately held conservation easements, private parks, private trails
Arterial Road Rights-of-Way	Arterial roads are part of the metropolitan highway system Arterial Road Right-of-Way	Local road rights-of-way that are not part of the metropolitan highway system
Other areas that are protected from development by local ordinances	Floodplains, steep slopes, bluffs	

*Areas protected or removed from development by local ordinance can be netted out

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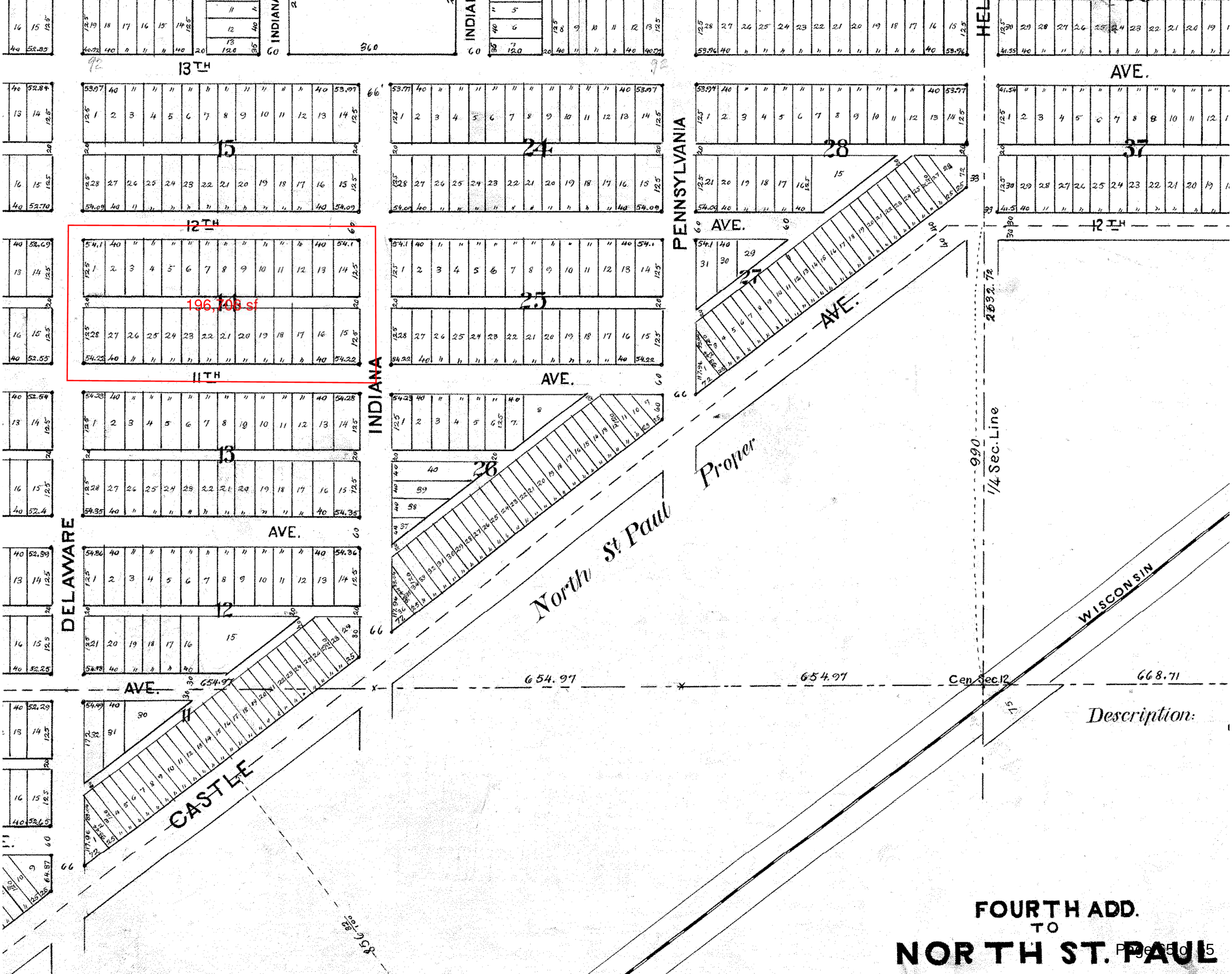
METROPOLITAN COUNCIL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