



**City of Minot**  
**Planning Commission**  
**Staff Report**

<b>Application Date:</b> 8/03/2021 <b>Date of Staff Report:</b> 8/11/2021 <b>Planning Commission Meeting:</b> 09/08/2021	<b>Staff Contact:</b> John Van Dyke, Principal Planner <b>Staff Recommendation:</b> Approval.
--	--

**Case Number:** 2021-09-06

**Project Name:** Sign/Process Text Amendment

**Current Legal Description:** N/a

**Proposed Legal Description:** N/a

**Present Address:** N/a

**Entitlements Requested:** Zoning Text Amendment

**Owners:** N/a

**Representative:** Harold Stewart  
 City Manager, City of Minot

**Present Zone(s):** N/a

**Present Use(s):** N/a

**Uses Allowed in Present Zone(s):** See Project Description for specific code sections proposed to be changed.

**Present Future Land Use Map Designation:** N/a

**Proposed Zone(s):** N/a

**Proposed Use(s):** N/a

**Uses Allowed in Proposed Zone(s):** See Exhibits 1 thru 3 for proposed changes.

**Proposed Future Land Use Map Designation:** N/a

**PROJECT DESCRIPTION:**

Public hearing request on an application from Harold Stewart on behalf of the City of Minot for a Zoning Text Amendment. The proposed changes affect Table 5.1-6(b) and Table 5.1-6(c) related to sign regulations and Section 9.2-1 C. related to written notice to neighboring property owners. The proposed changes are provided in Exhibits 1 thru 3.

## **BACKGROUND INFORMATION:**

---

The proposed changes in **Exhibits 1 & 2** reflect ongoing discussions with local sign companies that have encountered problems with the sign code since its adoption on April 5, 2021 that would prohibit some projects from moving forward without a variance. **Exhibit 3** provides changes to reflect a desired notification process that is expected to be more effective at securing input than the current process.

## **STAFF ANALYSIS:**

---

### Zoning Map and Future Land Use Map Amendment Analysis:

Section 9.1-8 of the Minot Land Development Code provides the procedures for amending the Minot Land Development Ordinance. Section 9.2 provides the noticing requirements for public hearings held by the Planning Commission. The applicant has submitted the necessary application documents required per Section 9.1-7 C. and noticing has been conducted as required per Section 9.2.

Section 9.1-8 I. requires the Planning Commission and City Council find the following, as applicable:

1. The amendment must not adversely affect the public health, safety, or welfare.
2. The amendment is supported by a strategy, recommendation, or other concepts from the Comprehensive Plan.
3. The amendment is necessary because of changed social or economic conditions in the areas affected.
4. The amendment is necessary to improve the ordinance by introducing best practices or makes the ordinance easier to understand and use by the public.

Staff provides the following guidance:

Regarding Section 9.1-8 I. 1., staff finds the proposed changes will not adversely affect the public health, safety, or welfare.

Regarding Section 9.1-8 I. 2., staff finds the proposed changes in Table 5.1-6(b). specifically related to pylon signs is supported by the Comprehensive Plan, specifically Aesthetic Goal 2, which states, "Promote improved building, landscaping and signage aesthetics for all areas and uses through strong ordinances." In addition, Policy 2. of this goal states, "Develop consistent zoning standards for all types of signage in all zoning districts..." Many times, these signs provide a higher aesthetic value to a commercial or industrial development compared with a pole sign, as their design must be architecturally similar to the primary structure by definition per Section 5.2-2 5. of the Zoning Ordinance. Staff finds Section 9.1-8 I. 2. is not applicable to the other proposed changes.

Regarding Section 9.1-8 I. 3., staff finds this requirement not applicable to the proposed changes.

Regarding Section 9.1-8 I. 4., staff finds that the ordinance will be improved by introducing best practice and make the ordinance easier to understand and use by the public. Staff provides further delineation for this

applicable criterium between proposed changes to Article 5: Signs and Article 9 related to neighboring property owner notifications.

*Article 5. Signs.*

Staff consulted with local sign companies to identify primary concerns resulting from the adoption of the new code on April 5, 2021. A summary of each is provided below:

1. Table 5.1-6(c) Sign Quantity - The prior code allowed up to 200 s.f. per wall of a building. The code adopted on April 5, 2021 limited this to one 200 s.f. sign. The total sign area has not been increased through the proposed change, but the flexibility for sign quantity would be reincorporated into code.
2. Table 5.1-6(c) Regarding Central Business District (CBD) – Signage placed outside the sign band between 10’ and 15’ will require a simple review by the Community Development Director. Denial could be appealed to the Planning Commission. This will provide flexibility for properties such as Westlies, Papa John’s, or most anything along Broadway or where alternative sign placement would be more aesthetically pleasing and/or common sensical. The sign band requirement was included in the previous code with an exception for properties setback 50’ or more. Changing it back to how it was previously adopted would not address signage constraints for many properties along Broadway which have little to no similarities in character to those buildings located along Main St. S.
3. Table 5.1-6(b) Pylon versus Pole Signs - Pylon/pole signs will now have the same setbacks. Pylon signs will require the City Engineer or their designee’s approval to ensure no visibility triangle obscuration. This change is proposed to bring Minot’s code into conformity with best practice in other larger cities in North Dakota. These are:
  - a. Fargo – Pole and Pylon signs treated the same in terms of setbacks. All classed as freestanding signs.
  - b. Bismarck – No setbacks for pole or pylon signs. May not obstruct visibility triangle.
  - c. Grand Forks – No setbacks for pole or pylon signs.
4. Table 5.1-6(b) Secondary Tenant Detached Sign Area - Pylon/pole signs have 150’ s.f. max for single tenant; for multiple tenants this is increased to 270 s.f. maximum and may be allocated as necessary between tenants. Both the prior and current code both allowed secondary tenant signage an additional 120 s.f. However, all secondary tenant signage must be located within the 120 s.f. of additional signage allowed. If there are numerous secondary tenants then the signage afforded to each becomes reduced and ineffective. The proposed changes do not change the overall sign area allowed, but provide flexibility in how it is allocated onsite to be determined by the property owner/tenants.

*Neighboring Property Owner Notification*

The proposed changes will change neighboring property owner notifications from certified mail to regular mail.

Presently, staff sends certified mail to each property owner within the notification area (300' within City limits; 600' within the extra-territorial jurisdiction). A three-month sample of notifications sent to neighboring property owners showed that staff was unable to reach 27% of property owners. 24% of the letters were returned as undeliverable and a further 3% where no verification of receipt was returned to the City. A likely culprit surrounding this is the specificity required for certified mailings. A certified letter must be signed by the individual it is addressed to and if the property owner information that the City has on file is incorrect then the letter will be undeliverable. A solution is to send letters via regular mail and include the name of the individual that is on file and the language "or current resident" to ensure that if the property owner is no longer residing at a particular property that the new resident has an opportunity to participate.

In addition, costs for certified mail is \$6.90 per letter and this cost is borne by the applicant through the collection of review fees. For the three-month sample noted previously, total certified mailing costs amounted to \$1,104. Regular mailing costs would be approximately \$0.75 per notification letter and include postage, envelope, and print costs for the letter.

Finally, Minot is the only city of the four largest cities in North Dakota to send neighboring property owner notifications via certified mail. This change is proposed to bring Minot's code into conformity with best practice in other larger cities in North Dakota.

Comments:

1. There were no public comments at the time of writing this staff report.
2. The application was distributed to city departments and external public agencies within the City for review and the following comments were received:
  - a. Harold Stewart, City Manager – Recommend changing "Economic Development Administrator" to "Community Development Director" for Note f. of Table 5.1-6(c). The department head overseeing sign permitting should have final call regarding deviations to base standards within the Central Business District.
    - i. Staff note – This change has been incorporated in **Exhibit 2**.

**FINDINGS OF FACT:**

---

The Minot Planning Commission should accept the following findings of facts:

- 1) The applicants have submitted a complete application.
- 2) Per Section 9.1-8 I. 1., the proposed changes will not adversely affect the public health, safety, or welfare.
- 3) Per Section 9.1-8 I. 2., the proposed changes in Table 5.1-6(b). specifically related to pylon signs is supported by the Comprehensive Plan, specifically Aesthetics Goal #2 and Policy #2 of the same goal. This same criterium is not applicable to the other proposed changes.
- 4) The criterium provided in Section 9.1-8 I. 3. is not applicable to the proposed zoning text amendments.

- 5) Per Section 9.1-8 I. 4., the ordinance will be improved by introducing best practice and make the ordinance easier to understand and use by the public.
- 6) The Minot Planning Commission has the authority to hear this case and recommend that it be approved or denied. The public notice requirements were met, the hearing was legally noticed and posted and the hearing was held and conducted under the requirements of North Dakota Century Code and Minot City ordinances.

**RECOMMENDATION:**

---

Staff recommends the Planning Commission adopt staff findings of fact and recommend approval to City Council of the zoning text amendment to Table 5.1-6(b) and Table 5.1-6(c) related to sign regulations and Section 9.2-1 C. related to written notice to neighboring property owners.

# EXHIBIT 1

**Table 5.1-6(b). District Requirements for Detached On-Premise Permanent Signs**

Sign Type	Regulation Item	Zoning Districts			
		Agricultural and Residential Districts	C1, GMU, C2, C4	CBD, P	M1, M2, OP
All Detached Signs	Sign Quantity	Not Applicable <sup>(e)</sup>	1 per business, max 4 per lot	1 per business	1 per business, max 4 per lot
Pole Signs	Maximum Primary Tenant Sign Area (square feet/SF) <sup>(d)</sup>	Not Applicable <sup>(e)</sup>	3 SF per 1' lot frontage, up to 150 SF	3 SF per 1' lot frontage, up to 150 SF	3 SF per 1' lot frontage, up to 250 SF
	Minimum Primary Tenant Sign Area (square feet/SF) <sup>(a)(d)</sup>		50	50	60
	Maximum Height (feet)		45 <sup>(b)</sup>	45 <sup>(b)</sup>	50 <sup>(b)</sup>
	Minimum Ground Clearance (feet) <sup>(c)</sup>		14	14	14
	Sign Separation (linear feet)		300	None	300
	Front and Side Yard Setbacks		To Lot Line	None	To Lot Line
	Rear Yard Setback (feet)		10	None	10
	Secondary Tenant Sign Area		Up to an additional 80% of primary/maximum sign area <sup>(f)</sup>	Up to an additional 50% of primary/maximum sign area <sup>(f)</sup>	Up to an additional 60% of primary/maximum sign area <sup>(f)</sup>
Pylon Signs	All Setbacks	Not Applicable <sup>(e)</sup>	Same as <del>principal building pole signs</del> <u>subject to approval by the City Engineer or their designee</u>		
	Ground Clearance (feet)		Not Applicable		
	All other requirements		Same as pole signs		
	Secondary Tenant Sign Area		Up to an additional 80% of primary/maximum sign area <sup>(f)</sup>	Up to an additional 50% of primary/maximum sign area <sup>(f)</sup>	Up to an additional 60% of primary/maximum sign area <sup>(f)</sup>
Monument Signs/Ground Signs	Maximum Height (feet)	Not Applicable <sup>(e)</sup>	6		
	All Setbacks		Same as pole signs		
	Maximum Primary Tenant Size		None		

**Table 5.1-6(b). District Requirements for Detached On-Premise Permanent Signs**

Sign Type	Regulation Item	Zoning Districts			
		Agricultural and Residential Districts	C1, GMU, C2, C4	CBD, P	M1, M2, OP
	Secondary Tenant Sign Area		Up to an additional 80% of primary/maximum sign area	Up to an additional 50% of primary/maximum sign area	Up to an additional 60% of primary/maximum sign area

Notes:

- a. If available lot frontage results in a smaller sign area than the minimum sign area, the minimum sign area may be used.
- b. 75' if sign faces a principal arterial outside of city limits, such as US Highway 2 or US Highway 83.
- c. 10' with ground protection (bollards, etc.)
- d. Sign area for a two-sided sign is calculated by one sign face.
- e. Permitted only as part of a conditional use permit or interim use permit. Existing signs tied to a nonconforming use are permitted until damaged beyond 50% or more of their value. At such time, they may only be rebuilt if connected to a new conditional use permit or interim use permit.
- f. Sign area may be allocated as-desired between multiple tenants so long as the total sign area does not exceed the maximum allowed for both the primary and secondary tenants.

#

# EXHIBIT 2

**Table 5.1-6(c). District Requirements for Attached On-Premise Permanent Signs**

Sign Type	Regulation Item	Zoning Districts				
		AG, RR, R1, R1S, R2, RM	R3C, RH, MH	C1, GMU, C2, C4	CBD, P	M1, M2, OP
All Attached Signs	Sign Quantity	1 wall sign per home for home-based business	Not Applicable	<u>Total sign area allowed may be divided into multiple signs, 1 wall sign or 1 projecting sign per business</u>		
Wall Sign	Maximum Sign Area (square feet/SF) <sup>(c)</sup>	4 SF	Not Applicable	3 SF per 1' lot frontage, max 200 SF	1.5 SF per 1' of building frontage <sup>(a)(b)</sup>	3 SF per 1' lot frontage, max 250 SF
	Maximum Height (feet) <sup>(c)</sup>	Not Applicable		45	45	50
	Minimum Distance from Ground (feet)			None	10 <sup>(e)</sup>	None
	Maximum Distance from Ground (feet)			Top of building wall	15 <sup>(e)</sup>	None
	Maximum Thickness (feet)			2	1	2
Projecting Sign/Flag Mount	Maximum Sign Area (square feet)	Not Applicable	50	50	50	
	Minimum Ground Clearance (feet)		8	8	8	
	Maximum Thickness (feet)		None	1	None	
	Maximum Height (feet)		Top of building wall	Top of building wall	None	
	Extension from building		None	May not extend over lot line, parking, or loading area <sup>(d)</sup>	None	

Notes:

- a. In the CBD and P Districts, if the building is set back 50 feet (50') or more from the street curb, the maximum sign area for wall signs shall be 2.5 square feet per linear foot of building frontage.
- b. In the CBD and P Districts, each facade shall be calculated individually, and sign area may not be transferred between facades.
- c. Sign area for a two-sided sign is calculated by one sign face.
- d. Exception to requirement requires application submittal to the Engineering Department for an encroachment permit.
- e. Placement outside of the minimum and maximum height subject to review and approval by the Economic Development Administrator or their designee.

# EXHIBIT 3

## Proposed Amendment to Section 9.2-1. C.

### C. Written Notice

The Planning Division shall provide written notice by ~~certified~~ mail to all owners of the subject property and all property owners within three hundred (300) feet of the subject property if located within the City of Minot. The Planning Division shall provide written notice by ~~certified~~ mail to all owners of the subject property and all property owners within six hundred (600) feet of the subject property if located within the City of Minot's Extra-territorial Jurisdiction. The notice shall be deposited in the U.S. mail at least fifteen (15) days before the first scheduled public hearing. "Notify" shall mean the mailing of a written notice to the address on record with City of Minot. The failure of property owners to actually receive the notice shall not invalidate the proceedings. If property is not the subject of the application, then written notice may only be provided to the applicant.