

SCWG Reorganized Current City Sign Regulations

General Provisions Working Draft

March 6, 2019



Drafting Notes:

This draft is based on the current regulations only. It has not been renumbered or formatted because we anticipate that the Sign Code Working Group will be making changes to this content.

Source of Regulations

General sign and zoning code provisions are shown in plain text. Where provisions have been taken out of a specific current sign code and moved elsewhere, they are identified as follows:

Provisions from the Montana Ave. Sign District (MT Ave SD) are shown in blue highlight.

Provisions from the Interchange/Expressway Districts (I/E) are shown in green highlight.

Provisions from the Shiloh Corridor Overlay District (SCOD) are shown in yellow highlight.

Provisions from the Medical Corridor Permit Zoning District (MCPZD) are shown in grey highlight.

Provisions from the East Billings Urban Revitalization District (EBURD) are shown in pink (or your preferred name for this color) highlight.

Drafting commentary is provided in blue ink.

Provisions that will need to be revised to comply with *Reed v. Town of Gilbert* are identified in red ink.

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Sec. 27-901 General Provisions

Drafting Issues: (1) consolidate and update general purpose statement then relocate specific purposes back to overlay districts, (2) incorporate all First Amendment legal considerations (draft provided below).

A. Purpose and Intent

[This section should identify a full list of policy reasons to regulate signs.]

Sec. 27-702. - Statement of purpose.

(a) This article creates the legal framework for signage regulations that is intended to facilitate an easy and agreeable communication between people. It recognizes the need to protect the safety and welfare of the public, the need for well-maintained, and attractive and aesthetically pleasing appearance in a community, and the need for adequate business identification and advertising and communication.

(b) This article authorizes the use of signs visible from public right-of-way provided the signs are:

(1) Compatible with their surroundings, pursuant to the objectives to proper design and zoning amenities;

(2) Allowing and promoting optimum conditions for meeting the sign user's needs while at the same time promoting the amenable environment and aesthetically pleasing appearance desired by the general public;

(3) Designed, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety;

(4) Legible, readable and visible in the circumstances in which they are used;

(5) Respectful of the reasonable rights of other advertisers whose messages are displayed

(1) MCPZD Statement of special purpose.

a. Medical corridor. The Billings Medical Corridor Permit Zoning District as set forth in article 27-900 (the "medical corridor") is a unique, distinct and separately identifiable area of the city. Over time, a majority of the medical corridor has developed a campus environment that is separate and distinct from the surrounding area. The large scale buildings, the complexities of the medical campuses, the needs and abilities of those seeking medical and emergency services, and the diversification of services offered within the medical corridor create a need for flexibility in establishing clear way-finding and informational signage. Accordingly, this special medical corridor sign code is adopted to facilitate, enhance, encourage and promote the following purposes:

1. To facilitate and foster complementary uses servicing the healthcare community, including hospitals, clinics, medical office buildings, laboratories, and related or supporting uses;

2. To promote a unique, attractive and distinctive healthcare campus environment with limited retail uses;
 3. To encourage creativity and continuity in design, quality, and the character of new signage;
 4. To anticipate and recognize the needs of patients and visitors in the medical corridor;
 5. To safeguard and enhance property values, and to protect public and private investment in the medical corridor;
 6. To promote those qualities in the visual environment which bring economic value to the community;
- To encourage the design of signs that are in harmony with the principal activities and structures that they serve and that are compatible with the overall healthcare campus environment;
8. To alleviate the burdens of complex compliance and enforcement responsibilities; and
 9. To promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic within the medical corridor.

The medical corridor is primarily occupied by regional healthcare providers that draw patients and visitors from a multi-state region. The medical corridor sign code recognizes that patients and visitors to the medical corridor need to be able to easily and conveniently locate, identify, and find their way to hospitals, medical groups, clinics, medical departments, laboratories, physicians, and other healthcare points of interest.

The primary purpose of the medical corridor is healthcare, with very limited retail uses. Accordingly, the medical corridor sign code recognizes that the primary purpose of signs in the medical corridor is not for retail purposes, yet retains historical restrictions for retail establishments within the medical corridor.

The caliber of the development of the medical campuses within the medical corridor over time has demonstrated a commitment to maintaining architecturally sound and aesthetically pleasing signage, as well as uniform appearance of signage within parcels under common ownership. Healthcare and healthcare providers are constantly evolving and changing. One of the express purposes of the medical corridor sign code is to provide healthcare providers with flexibility with respect to both way-finding and informational signage.

b. South 27th Street corridor. This section acknowledges the architectural visual concerns associated with the South 27th Street corridor zoning district as set forth in article 27-800. This section further recognizes the needs and benefits of limited sign standards that will adequately serve the uses in this zoning district and those who utilize their services, and at the same time, recognizes the need to protect the remaining residential areas within, adjacent and surrounding these zoning districts from the intrusion of unsightly, excessive and confusing sign usage.

MT Ave SD Sec. 27-732. - Purpose.

Due to the unique character of the historic district located on Montana Avenue, these regulations are designed to encourage the preservation, revitalization, and enhancement of the

district through the use of appropriate signage. These regulations also encourage compatibility of the signage with the historic character of the district.

This district shall not regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; flags of any nation, government, or fraternal organization; barber poles; religious symbols; or any display or construction not defined herein as a sign.

Thus, the primary intent of this district shall be to regulate signs of a commercial nature intended to be viewed from vehicular or pedestrian public right-of-way.

SCOD Sec. 27-1410. - Signage standards—Purpose, intent, and scope.

The purpose and intent of this section is to promote commerce, traffic safety, and community identity while improving the visual environment of residential, commercial, and industrial areas.

EBURD 27-1816 (a) Intent

Intent. Commerce is the primary purpose, function and goal of the EBURD. It is the economic engine that funds the city and Yellowstone County. The functions of signs are to support and enhance that purpose. Regardless of other considerations, the ability of a business to thrive in any given location is the final measure of appropriateness. In a community of our size serving a broad market including Montana, Wyoming and parts of North Dakota, and in a time of growing online commerce, it is increasingly necessary that a business must be able to reach beyond the immediate neighborhood to survive. The ways traffic moves through districts is the most reliable indicator of sign needs and the assurance of success of this purpose. The Billings Industrial Revitalization District Inc. ("BIRD") is the organization that oversees the EBURD and makes recommendations to the city council.

B. Interests NEW

This new section identifies the City's legitimate legal interests in sign regulation.

The City has a legitimate, important, substantial, or compelling interest in:

1. Preventing the proliferation of signs of generally increasing size, dimensions, and visual intrusiveness that tends to result from property owners competing for the attention of passing motorists and pedestrians ("sign clutter"), because this approach to over-signage:
 - (a) Creates visual distraction and obstructs views, potentially creating safety hazards for motorists, bicyclists, and pedestrians;
 - (b) May involve physical obstruction of streets, sidewalks, or trails, creating public safety hazards;
 - (c) Degrades the aesthetic quality of the city, making the city a less attractive place for residents, business owners, visitors, and private investment; and
 - (d) Dilutes or obscures messages on individual signs due to the increasing competition for attention.
2. Maintaining and enhancing the character of the central business district and commercial corridors, both of which are resources of exceptional quality and vibrancy to the community as a whole.
3. Protecting the health of the city's tree canopy, an important community asset that contributes to the character, environmental quality, and economic health of the city and the region.
4. Maintaining a high quality aesthetic environment to protect and enhance property values, leverage public investments in streets, sidewalks, trails, plazas, parks, open space, civic buildings, and landscaping, and enhance community pride.
5. Protecting minors from speech that is harmful to them according to state or federal law, by preventing such speech in places that are accessible to and used by minors.

C. Findings NEW

This new section provides the City's legal findings that underpin the sign regulations.

The City finds that:

1. Content-neutrality, viewpoint neutrality, and fundamental fairness in regulation and review are essential to ensuring an appropriate balance between the important, substantial, and compelling interests set out in this article and the constitutionally-protected right to free expression.
2. The regulations set out in this article are unrelated to the suppression of constitutionally protected free expression, do not relate to the content of protected messages that may be displayed on signs, and do not relate to the viewpoint of individual speakers.

3. The incidental restriction on the freedom of speech that may result from the regulation of signs pursuant to this article is no greater than is essential to the furtherance of the important, substantial, and compelling interests that are set out in this article.
4. Regulation of the location, number, materials, height, sign area, form, and duration of display of temporary signs is essential to preventing sign clutter.
5. Temporary signs may be degraded, damaged, moved, or destroyed by wind, rain, snow, ice, and sun, and after such degradation, damage, movement, or destruction, such signs harm the safety and aesthetics of the public on city's streets or sidewalks if they are not removed.
6. Certain classifications of speech are not constitutionally protected due to the harm that they cause to individuals or the community.

D. Savings and Severability NEW

This new section provides savings and severability provisions specific to the sign regulations.

1. Signs containing noncommercial speech are permitted anywhere that commercial speech signs are permitted, subject to the same regulations applicable to such signs. Any sign that can be displayed under the provisions of this article may contain a noncommercial message.
2. If any clause, section, or other part of the application of these sign regulations shall be held by a court of competent jurisdiction to be unconstitutional or invalid, it is the intent of the city that such clause, section, or specific regulation be considered eliminated and not affecting the validity of the remaining clauses, sections, or specific regulations that shall remain in full force and effect.

E. Conflicts with Other Provisions NEW

This new section provides instructions about resolving conflicting code language specific to sign regulations.

Nothing in this article shall be deemed a waiver of the provisions of any other ordinance or regulation applicable to signs. Signs located in areas governed by several ordinances or applicable regulations shall comply with all such ordinances and regulations. If there is a conflict between this article and any other ordinance or regulation, the more stringent shall apply.