

Osseo City Council AGENDA

WORK SESSION Monday, January 27, 2020 6:00 p.m., Council Chamber

MAYOR DUANE POPPE

COUNCILMEMBERS: JULIANA HULTSTROM, HAROLD E. JOHNSON, MARK SCHULZ, LARRY STELMACH

- 1. Call to Order
 - 2. Roll Call (quorum is 3)
 - 3. Approval of Agenda (requires unanimous additions)
 - 4. Discussion Items
 - A. Review Zoning Ordinance Amendments
 - 5. Adjournment

The City of Osseo's mission is to provide high-quality public services in a cost-effective, responsible, innovative, and professional manner given changing needs and available resources.



Osseo City Council Work Session Item

Agenda Item: Discuss Zoning Ordinance Amendments

Meeting Date: January 27, 2020

Prepared by: Nancy S. Abts, AICP, City Planner

Attachments: Minutes excerpt from December 9, 2019 meeting

Updated Ordinance Amendments

Agenda item from December 9, 2019 meeting

Memos from WSB

Policy Consideration:

Hold a discussion on proposed amendments to the Zoning Ordinance.

Previous Action or Discussion:

The City Council last discussed these amendment to the Zoning Ordinance at their December 9 meeting. At the time, City Administrator Grams indicated the amendments would be considered at the Council's March 2020 Work Session.

Previously, a preliminary schedule for completing these updates was proposed in August:

August 19	Planning Commission	Provide initial input on Code Updates
September 16	Planning Commission	Review initial information on Code Updates
October 21	Planning Commission	Public Hearing on Code Updates
November 12	City Council	1st Reading (including any revisions)
November 25	City Council	2 nd Reading & adoption

Previously, the Planning Commission held a preliminary discussion of work to implement the Comprehensive Plan at their <u>April 15, 2019</u> meeting. Following direction from the City Administrator, additional work on Comprehensive Plan implementation was paused until adoption of the Plan.

On July 24, 2019, the Metropolitan Council reviewed and accepted Osseo's 2040 Comprehensive plan, and authorized the City to put the plan into effect. The Osseo City Council approved submitting the Comprehensive Plan to the Metropolitan Council on November 26, 2018, and adopted the 2040 Comprehensive Plan Update on August 12, 2019.

Budget or Other Considerations:

When the Council is ready to adopt the code amendments, a 1st & 2nd Reading will need to be scheduled.

Background:

Under Minnesota State Statute, a city's zoning ordinance should "carry out the policies and goals of the land use plan" (MN Statute 462.357 Subd. 2). As such, all cities that update their land use plans must then follow up with necessary revisions to the zoning ordinance to bring zoning controls into alignment with the goals and policies of the

adopted comprehensive plan. Osseo began this process last year in coordination with planning consultants from WSB & Associates.

Edge-Mixed Use District

Removed requirements for bicycle parking.

Alternative Energy Systems

Removed sections for geothermal and wind energy. Updated language regarding screening requirements for ground-mounted solar installations in residential districts and requiring site plan approval for ground-mounted installations.

Parallel Parking Dimensions

See attached memo from WSB.

Grading and Excavation Permits

See attached memo from WSB.

Payments in lieu of landscaping

Added language to allow required landscaping to be placed in a City Park or right-of-way, or accepting payments in lieu of landscaping, when required landscaping cannot be required on site.

Fences

Removed permitting exceptions for fences shorter than 6 feet tall.

City Goals Met By This Action:

- 4) Improve the City's aging and deteriorating infrastructure
- 5) Continue to give Staff the necessary tools to do their jobs effectively and efficiently
- 6) Update City policies
- 10) Develop and implement the Comprehensive Plan
- 14) Promote a healthy and high quality standard of living

Recommendation/Action Requested:

The City Council is asked to discuss the proposed zoning ordinance amendments and direct staff accordingly.

Next Step:

New or updated ordinances typically are read at two Council meetings before they are adopted.

If the Edge Mixed Use Zoning District is established, an additional amendment to the Zoning Code would be required to rezone the properties into that district. (The Zoning Map is Appendix D of the Zoning Code.)

In 2020, additional work on the City's Planned Unit Development requirements and Subdivision Ordinance are planned.

OSSEO CITY COUNCIL REGULAR MEETING MINUTES December 9, 2019

1. CALL TO ORDER

Mayor Duane Poppe called the regular meeting of the Osseo City Council to order at 7:00 p.m. on Monday, December 9, 2019.

2. ROLL CALL

Members present: Councilmembers Juliana Hultstrom, Harold E. Johnson, Mark Schulz, Larry Stelmach, and Mayor Duane Poppe.

Staff present: City Administrator Riley Grams, City Planner Nancy Abts, and City Attorney Mary Tietjen.

Others present: Financial Consultant Gary Groen, James Kelly, Kenny Nelson, Molly Just, David & Roseanna Garibaldi, and Preston Kroska.

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10. NEW BUSINESS

B. DISCUSS AMENDMENTS TO ZONING ORDINANCE

Abts stated under Minnesota State Statute a City's zoning ordinance should "carry out the policies and goals of the land use plan" (MN Statute 462.357 Subd. 2). As such, all cities that update their land use plans must then follow up with necessary revisions to the zoning ordinance to bring zoning controls into alignment with the goals and policies of the adopted comprehensive plan. Osseo began this process this summer in coordination with planning consultants from WSB & Associates. It was noted much of the City's Zoning Code has not been updated since 1994. She explained staff was working to improve the codes readability while also making it more user friendly. Staff commented further on the proposed updates to the Zoning Code and requested feedback from the Council.

Molly Just, WSB, stated she has had a great time working with Abts on the Zoning Code updates. She discussed how she had been working with staff to implement the Comprehensive Plan changes into the Zoning Code. She commented on the dimensional standard table within the code and reviewed all of the proposed setback and height requirements.

Schulz asked where the 35-foot building height and 65-foot building height was allowed. Ms. Just reported the 65-foot building height was allowed for multi-family housing in Osseo. She indicated the 35-foot building height would be allowed in the R-2 zoning district for transitional uses such as churches, educational uses, and assisted living facilities.

Schulz explained the City did not have the resources to update the Zoning Code in the past and appreciated having more experienced staff to work on this project. He stated he had more questions on how this document impacts Osseo going forward into the future. He recommended the Edge Mixed Use zoning district be included in the Zoning Code, especially around the Central Business District. He requested the reference to professional services include language that would allow for health care businesses and body art.

Schulz indicated he was against requiring developers to provide covered bicycle parking. He wanted to allow developers to determine if this was necessary or not.

Stelmach and Johnson agreed.

Further discussion ensued regarding vehicle parking requirements.

Schulz expressed concern with the City having ground based solar and how panels could be abated if pollution or hazardous conditions were to occur. He stated he did not believe these types of systems should be located in residential neighborhoods. He commented he supported geothermal units. He recommended solar panels only be allowed via a conditional use permit or variance.

Hultstrom reported she built a home in 2010 with geothermal heat and noted this required a great deal of property. She did not anticipate this type of system would be applicable in Osseo.

Council consensus was to remove the solar panel language. Abts recommended the Zoning Code have some language to address this use in the event a resident were to approach the City with a request.

Schulz proposed the language within the code restrict ground mounted solar panels rather than promote solar panels. He stated he was not anti-solar, but explained he wanted to limit eyesores in people's backyards. He suggested the City require an abatement bond for the removal of solar panels after their useful life.

Poppe and Hultstrom agreed the code should be more restrictive.

The Council supported the use of solar panels in commercial districts when properly screened. The Council recommended the language regarding heat pumps and wind energy be omitted from the Zoning Code.

Schulz believed the City should limit the amount of dirt that can be moved on their lot to less than 25 cubic yards and suggested a permit should be required.

Johnson agreed 25 cubic yards was too much. Abts stated she could research this topic further and would report back to the Council.

Schulz commented he did not want to see the City requiring too many trees within new developments. He stated he supported trees and landscaping in Osseo, but feared the proposed requirements could be a roadblock for developers. Abts commented she

could research language on how other cities handle this situation. She indicated some cities take cash payments in lieu of landscaping.

Schulz discussed fencing requirements and reported he was concerned about fences be located too close or over property lines. He asked if the \$25 fee was adequate to cover the staff time required to oversee this issue.

Stelmach stated he supported the survey option.

Poppe noted surveys were quite expensive. City Attorney Mary Tietjen stated requiring a survey does not ensure the fence would be installed in the proper location. She anticipated the City would still have to be involved in the placement of fences.

Ms. Just stated she had some great language that could be included in the Zoning Code regarding fences. She agreed that surveys were expensive. The Council supported reviewing this language in further detail.

Schulz questioned how home occupations negatively impacted the neighbors. He stated the City had a noise ordinance to address noise concerns. He explained he promoted home businesses and entrepreneurs. He indicated he did not want to hinder new businesses and recommended the City only restrict the issues that were major concerns.

Schulz commented on the parking requirements. He stated he did not want the requirements to be set in such a manner where the City would be violating its own policy with respect to parking on both sides of the street. Abts reported WSB could review the minimum size parking stalls.

Abts thanked the Council for its feedback on the Zoning Code and stated the earliest staff could have this back for 1st reading would be January 13 and noted the 2nd reading could be held on January 27. She explained the City had nine months to complete the revisions on the Zoning Code. Grams commented this would be coming to the Council for discussion at a work session in March of 2020.

Further discussion ensued regarding setbacks for utilities.

CHAPTER 153: ZONING

GENERAL PROVISIONS

№ 153.001 TITLE.

This chapter shall be known, cited, and referred to as the city's Zoning Code, except as referred to herein, where it shall be known as this chapter.

(1997 Code, § 25.01) (Ord. passed 11-14-1994)

№ 153.002 PURPOSE.

The purpose of this chapter is to:

- (A) Protect the public health, safety, comfort, convenience, and general welfare;
- (B) Promote orderly development of residential, commercial, industrial, <u>institutional</u>, and recreational areas of the city;
- (C) Divide the area within the city into zones and districts regulating the location, construction, reconstruction, alteration, and use of structures and land as well as regulating the bulk of structures in relationship to surrounding properties;
 - (D) Protect and improve the quality of unique natural resources;
 - (E) Preserve and protect property values;
- (F) Provide for the administration of this chapter and define the powers and duties of the administering officer as provided hereinafter; and
- (G) Prescribe penalties for the violation of the provisions in this chapter or any amendment thereto.

(1997 Code, § 25.02) (Ord. passed 11-14-1994)

153.00X RELATIONSHIP TO COMPREHENSIVE PLAN.

It is the policy of the city that the enactment, amendment, and administration of this chapter be accomplished with due consideration of the policies and recommendations contained in the Osseo comprehensive plan as amended from time to time by the city council.

§ 153.003 JURISDICTION; ANNEXATIONS.

The geographic jurisdiction of this chapter shall be the entire area within the corporate limits of the city. Territory that may be added to the city by annexation, merger, or other means shall be classified within the one- and two-family residential (R-1) zoning district until such time that the City Council, after referral to and recommendation by the Planning Commission, may rezone all or portions of the added territory to more appropriate classifications.

(1997 Code, § 25.04) (Ord. passed 11-14-1994)

This chapter is enacted in accordance with the authority granted by M.S. \$ 462.357, as it may be amended from time to time.

(1997 Code, § 25.05) (Ord. passed 11-14-1994)

■§ 153.005 APPLICATION; MINIMUM REQUIREMENTS; COMPLIANCE REQUIRED.

- (A) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- (B) No structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this chapter.

(1997 Code, § 25.07) (Ord. passed 11-14-1994) Penalty, see § 10.99

■§ 153.006 GREATER RESTRICTIONS.

Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements, shall prevail.

(1997 Code, § 25.07) (Ord. passed 11-14-1994)

§ 153.007 ESSENTIAL SERVICES.

- (A) Essential services shall be subdivided into two classes for consideration under this chapter: governmentally owned and operated, or privately owned and operated.
- (B) (1) Governmentally operated and owned essential services (sewer, water, and the like) shall be permitted as authorized and regulated by state law and ordinances of the city. It is the intention that these essential services are exempt from the application of this chapter.
- (2) Privately owned and operated essential services (telephone, electric, gas, and the like) are subject to provisions of this chapter, unless specifically exempted by a provision of this chapter. These essential services are also subject to other ordinances of the city as applicable.

(1997 Code, § 25.07) (Ord. passed 11-14-1994)

■§ 153.008 INTERPRETATIONS.

In construing this chapter, the following rules of construction shall govern, unless their observance would involve a construction inconsistent with the manifest intent of the Council, or be repugnant to the context of this chapter.

- (A) Words used in the present tense shall include the past and future tenses, and the future tense shall include the present.
- (B) Words in the singular shall include the plural, and the plural shall include the singular.
- (C) The word shall is mandatory, and the word may is permissive.
- (D) The use of one gender shall include all other genders.
- (E) References herein to the Administrator, Zoning Officer, Planner, Assessor, Engineer, Building Officer, City and Administrator, City Clerk, or -Treasurer shall mean the person who then holds that position in the city, unless otherwise expressly stated.

- (F) The use of the phrase "used for" shall include the phrases "designed for," "intended for," "improved for," "maintained for," "offered for," and "occupied for."
- (G) Words and phrases shall be construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and others as have acquired a special meaning, or are defined in this chapter, shall be construed according to that special meaning or their definition.
- (H) References in this chapter to this chapter or to another city ordinance or code provision, whether or not by specific number, shall mean this chapter, and the referred-to ordinance or code provision, as it is in force as of the effective date of this chapter, and as it may from time to time thereafter be amended and modified, and shall also mean and include any ordinances that may supersede or be substituted for the ordinance or code provision so referred to.
- (I) All measured distances expressed in feet shall be rounded to the nearest tenth of a foot. (1997 Code, § 25.03) (Ord. passed 11-14-1994)

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUTTING. Making contact with or separated only by public thoroughfare, railroad, public utility right-of-way, or navigable waters.

ACCESSORY BUILDING OR USE. A subordinate building or use, attached or detached, which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of that building or main use. A building or use subordinate to and serving the principal building or use on the same lot, attached or detached, and clearly and customarily incidental thereto.

ACCESSORY DWELLING UNIT. A dwelling unit that is located on the same lot as a one-family detached dwelling to which it is accessory to and subordinate in size. An accessory dwelling unit may be within or attached to the one-family dwelling, or in a detached accessory building on the same lot.

ACCESSORY STRUCTURE. A subordinate building or other subordinate structure, including but not limited to detached garages, sheds, gazebos, or swimming pools, the use of which is clearly subordinate or accessory to the principal use of the building or property.

ADDITION. A physical enlargement of an existing structure.

-ADDRESS SIGN. A sign communicating street address only, whether in script or in numerical form.

ADMINISTRATOR. The officer, duly authorized deputy, or other person charged with the administration and enforcement of this chapter.

-ADVERTISING SIGN. A billboard, poster panel, painted bulletin board, or other communicative device which is used to advertise products, goods, or services which are not exclusively related to the premises on which the sign is located. For purposes of this chapter, a

sign posted no more than 120 hours in any eight day period shall not be considered an ADVERTISING SIGN.

ALLEY. A public right-of-way which affords a secondary means of access to abutting property, not to exceed 30 feet in width at its intersection with a street.

ALTERATION. Any change in the size, shape, character, or use of a building or structure; or any change made to a sign; but shall not include routine maintenance, painting, or change of copy of an existing sign.

ANTENNAE. Equipment located on the exterior of or outside of a building or structure used for transmitting or receiving radio, television, or telecommunication signals.

APARTMENT. See DWELLING UNIT.

APARTMENT BUILDING. See DWELLING, MULTIPLE-FAMILY.

APPLICANT. Unless otherwise specified, an owner or agent for the owner, including a subdivider, developer, attorney, or similar representative who has filed an application for development or sign approval with the city.

APPLICATION. The process by which the owner, or their agent, of a parcel of land within the city submits a written request for any type of development or sign approval.

- AREA IDENTIFICATION SIGN. A sign which identifies the name of a shopping center consisting of three or more separate business concerns, a singular freestanding commercial or institutional building 50,000 square feet or larger, an industrial building in excess of 100,000 square feet, an industrial area, an office or institutional complex consisting of three or more buildings, or any combination of the above. An AREA IDENTIFICATION SIGN shall contain no advertisement, except on a reader board.

AUTO REDUCTION YARD. A lot or yard where three or more unlicensed motor vehicles or the remains thereof are kept for the purpose of dismantling, sale of parts, sale as scrap, storage, or abandonment.

AUTOMOBILE DETAILING. Any facility that provides extensive vehicle cleaning in exchange for a fee or as part of a service to customers, including but not limited to the use of vacuums, shampoos and other cleaning products, steam cleaners, and manual detailed cleaning inside and outside the vehicle.

AUTOMOBILE REPAIR, MAJOR. General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers; including body work, frame work, and major painting service.

AUTOMOBILE REPAIR, MINOR. Incidental repairs, replacement of parts, and motor service to automobiles, but not including any operation specified under the definition of automobile repair, major.

AUTOMOBILE SERVICE STATION. Any building or premises used for the dispensing or sale of automobile fuels, lubricating oil or grease, tires, batteries, or minor automobile accessories. Services offered may include the installation of tires, batteries, or minor accessories, minor automobile repairs, and greasing or washing of individual automobiles. When sales, services, and repairs as detailed here are offered to the public, the

premises will be classified as a *public garage*. *AUTOMOBILE SERVICE STATIONS* shall not include the sale or storage of vehicles; shall not include premises offering major automobile repairs, automobile wrecking, or detached car washes.

AUTOMOBILE WASHING (CAR WASH). Any facility that provides an area for washing and cleaning of motor vehicles using water, whether it be automated or self-serve, in exchange for a fee or as part of a service to customers and may include vacuums.

AUTOMOBILE WRECKING. See JUNK YARD.

AWNING. A temporary hood or cover which projects from the wall of a building, and of a type which can be retracted, folded, or collapsed against the face of a supporting building.

-BANNERS. Temporary signs or other attention getting devices used to announce open houses, grand openings, special announcements, sales, or other matters.

BASEMENT. The portion of a building having more than one-half of the clear floor-to-ceiling height below the average level of the adjoining finished grade. A **BASEMENT** shall be counted as a story when the ceiling of the **BASEMENT**_extends more than five feet above the highest level of the adjoining finished grade; otherwise it shall not be counted as a story.

BENCH SIGNS. A sign which is affixed to a bench, such as at a bus stop.

BILLBOARD. See ADVERTISING OFF-PREMISE SIGN.

BLOCK. A tract of land bounded by streets, highways, expressways, or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, waterways, or boundary lines of the corporate limits of the city.

BOARD. The Zoning Board of Appeals.

BOARDING HOUSE. A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three or more persons, but not to exceed eight persons.

BROADCASTING ANTENNA, RADIO AND TELEVISION. Commercial or public broadcasting towers over 200 feet in height, or more than one tower in each installation of any height, or accessory use non-commercial towers of any height if not located on the same lot or parcel as the principal use.

BUILDABLE AREA. The space remaining on a zoning lot after the minimum setbacks and open space requirements of this chapter are met.

BUILDING. The portion of a structure that consists of a roof and is enclosed so as to afford persons or property protection from the elements, which structure is used or intended for supporting or sheltering any use or occupancy; and when the structure is divided by party walls without openings, each portion of the **BUILDING** so separated shall be deemed a separate **BUILDING**.

BUILDING, COMPLETELY ENCLOSED. A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance and exit doors.

BUILDING, DETACHED. A building surrounded by open space on the same lot as the principal building.

BUILDING FACADE. The area of any exterior elevation of a building extending from grade to the top of the exterior wall and the entire width of the building elevation, including parapets, awnings, canopies, mansards, or other appendages or architectural treatments to the wall. The **FACADE** does not include flat roof sections of multi-level buildings nor the shingled faces of hip roofs or gable roofs.

BUILDING HEIGHT. The vertical distance measured from curb level or its equivalent, to the highest point of the roof surface on a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge of gable, hip, and gambol roofs. For buildings set back from the street line, the height of the building shall be measured from the average elevation of the finished grade along the front of the building, provided its setback from the street line is not less than the height of the finished grade above the established curb level.

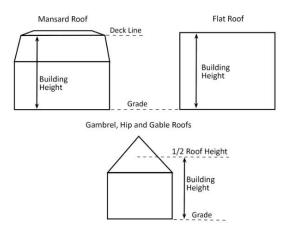


Figure 1: Illustration of building height

BUILDING LINE. An imaginary line separating buildable area and required yards.

BUILDING, NON-CONFORMING. Any building or structure which does not comply with all the regulations of this chapter or any amendment thereto governing the zoning district in which the building or structure is located.

BUILDING OFFICIAL. A city official appointed by the City Council to provide for the enforcement of the Building Code.

BUILDING, PRINCIPAL. A non-accessory building in which the primary use of the lot on which it is located is conducted.

BUSINESS. Any establishment, occupation, employment, or enterprise wherein merchandise is manufactured, exhibited, or sold, or which occupies time, attention, labor, and materials, or where services are offered for compensation.

-BUSINESS SIGN. Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where the sign is located.

—CAMPAIGN SIGN. A temporary sign promoting the candidacy of a person running for a governmental office, or promoting an issue to be voted on at a governmental election.

CANOPY. A projection or extension of a building or structure erected in a manner so as to provide a shelter or cover over the approach to any entrance to a store, building, or place of assembly.

-CANOPY SIGN. Any message or identification affixed to a canopy.

CANOPY, VEHICULAR SERVICE. A permanent roof-like structure either attached or detached from a permitted building, designed to provide cover for off-street vehicle service areas, such as gasoline station pump islands, drive-in establishments, truck loading berths, and the like.

—CHURCHRELIGIOUS INSTIUTUTION. A building, together with its accessory buildings, where persons regularly assemble for public worship as the principal use and where the buildings and uses are maintained and controlled by a religious bodyn organized group for to sustain public worship.

CITY. The City of Osseo, unless otherwise provided by the context.

CLINIC, *MEDICAL*. A building in which a group of physicians, dentists, or combination thereof, and professional assistants, are associated for carrying on their profession. The *CLINIC* may include a dental or medical laboratory, but shall not include inpatient care or operating rooms for major surgery.

COMMERCE, RETAIL SERVICE. An enterprise that involves the offering of a service or entertainment to the general public for compensation.

COMMERCE, **RETAIL TRADE**. An enterprise that involves the offering of a product to the general public for compensation.

CONDITIONAL USE. A use which, although generally compatible with the basic use classification of a particular zone, should not be permitted to be located as a matter of right in every area included within a zone because of hazards in the use itself or special problems which its proposed location may present.

CONDOMINIUM. A form of individual ownership within a multiple-family structure which entails joint responsibility for maintenance and repairs; each dwelling unit is owned outright, and each occupant owns a share of the land and other property.

-CONSTRUCTION SIGN. A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier, or other involved parties.

COUNCIL. The City Council.

CURB LEVEL. The level of the established curb in front of the building measured at the center of the front. Where no curb elevation has been established, the City Engineer shall establish a curb elevation. When a building has frontage on more than one street, the lowest **CURB LEVEL** as determined above will apply.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including buildings or other structures; dredging, filling, grading, paving, excavation, or drilling operations; or storage of equipment or materials.

—*DIRECTION SIGN.* A sign erected on public or private property which bears the address and/or name of a business, institution, church, or other use or activity, plus directional arrows or information regarding location.

-DIRECTORY SIGN. An exterior informational wall sign which identifies the names of businesses served by a common public entrance.

DISTRICT. Refers to a specific zoning district as defined by this chapter.

DISTRICT, ZONING. A portion of the corporate area of this the city within which certain uniform regulations and requirements or various combinations thereof apply under the conditions of this chapter.

DUPLEX. A residential structure containing two dwelling units only, completely surrounded by open space.

DWELLING. A building or portion thereof designed or used exclusively wholly or in part for residential occupancy living or sleeping by human occupants, including one-family, two-family, and multiple-family dwelling units; but not including hotels, motels, boarding or rooming houses, recreational vehicles, tents, or cabins. Garages, tents, sheds, greenhouses, and similar accessory structures shall not be considered dwellings, and shall at no time be used as a dwelling, either temporarily or permanently. Tents may be used for recreational purposes.

DWELLING, DETACHED. One which A dwelling that is completely surrounded by open space on the same lot.

DWELLING, ONE-FAMILY ATTACHED. A building, such as townhouses or row houses, containing dwellings in which: (a) each dwelling is located on its own parcel; (b) each dwelling is attached to another by party walls without openings; and (c) each dwelling has primary ground floor access to the outside.

DWELLING, MULTIPLE-FAMILY. A single structure specifically constructed and designed for and containing three or more dwelling units, with more than one unit connecting to a common corridor or entrance way or with the dwelling units having two or more contiguous party walls. For example, -four-plexes and apartment buildings; but not including hotels, motels, or boarding houses.

DWELLING, **ONE-FAMILY**. A residential structure containing <u>only</u> one dwelling unit-only.

DWELLING, TWO-FAMILY. A building designed exclusively for occupancy by two families living independently of each other, typically referred to as a double bungalow or duplex, where

Commented [1]: Also, I think the last two sentences here are substantive use provisions and should be somewhere other than in a definition.

the entire building is located on a single lot. Neither dwelling unit comprising a two family dwelling shall be an accessory dwelling unit.

DWELLING UNIT. One or more rooms which are arranged, designed, or used exclusively as living quarters for one family or one individual only. Complete single kitchen facilities and individual bathrooms, permanently installed, shall always be included with each **DWELLING UNIT**.

EAVES. The edge of a roof, usually projecting beyond the walls, the height of which edge is measured from the lowest point thereof to grade.

EFFICIENCY UNIT. A dwelling unit with one primary room which doubles as a living room, dining room, and bedroom.

EROSION. The wearing away of the land surface by the action of natural elements.

ESSENTIAL SERVICES. Underground or overhead gas, electrical, steam, or water transmission or distribution system; collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, or other similar equipment or accessory equipment in conjunction therewith, not including buildings.

FAMILY. A groups of Θone or more persons related or unrelated by blood, marriage, or adoption, including foster children, all of the members of which have common use and access to all living and eating areas, bathrooms, and food preparation and serving areas and which is based on an intentionally structured relationship providing organization and stability, maintaining a common household in a dwelling unit. A family includes group homes for people with disabilities, but it does not include larger institutional group living situations such as (but not limited to) dormitories, retirement homes, and nursing homes.

-FEEDLOT. An enclosure for the purpose of feeding, breeding, raising, or holding poultry or livestock, not an accessory use incidental to an agricultural operation.

FENCE. A structure, including walls, hedges, or similar barriers, providing enclosure, but not necessarily protection, against the elements, or which provides a visual barrier between adjacent property and the area enclosed.

-FLASHING SIGN. A sign which contains rotating, flashing, or intermittent lights, or animation, or exhibits noticeable changes in color, intensity, texture, shape, pattern, or light intensity.

FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building or buildings on a zoning lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings. In particular, **FLOOR AREA** will include:

- (1) Basement space (as basement is defined herein);
- (2) Attic floor space where the structural headroom exceeds seven and one-half feet;
- (3) Interior balconies and mezzanines;

Commented [2]: Last sentence is substantive – could consider separating it from the definition.

- (4) Enclosed porches, but not terraces and breezeways;
- (5) Stairwells at each level; and
- (6) Accessory structures.

FLOOR AREA, LIVABLE. The same area as defined in the definition of floor area herein, excluding all areas occupied by basements, garages, porches, attics, stairways, and storage, utility, and heating rooms, and other accessory uses.

FLOOR AREA RATIO or **F.A.R.** The floor area of the building or buildings on a zoning lot divided by the area of the zoning lot, or in the case of planned development, by the net site area. The **F.A.R.** requirements, as set forth in each zoning district, shall determine the maximum floor area allowable (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.

-FREESTANDING SIGN. Any stationary, self supporting sign not affixed to any other structure and supported by a pole(s). A reader board may be attached to the FREESTANDING SIGN structure, but the reader board shall not exceed 20% of the area containing the sign copy. The reader board shall be included in calculating the allowable sign square foot area as required in the individual district.

FRONT BUILDING FACADE. The side or sides of the building containing the public entrance.

GARAGE, *PRIVATE*. An attached or detached building or portion of the principal building, including a carport, which is used primarily for storing passenger vehicles and recreational vehicles. A private garage has no facilities for mechanical service or repair.

GARAGE, *PUBLIC*. A place where any or all of the services as set forth in the definition of automobile service station herein are offered to the public, and the services or sales are made directly into or on the motor vehicle.

-GOVERNMENTAL SIGN. A sign which is erected by a governmental unit for the purpose of identification and directing or guiding of traffic.

GRADE.

- (1) For buildings and structures, the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
 - (2) For signs, the elevation of the ground immediately adjacent to the sign base.

-GREENHOUSE. A structure used for the cultivation or protection of flowers, vegetables, and mursery stock.

HOME OCCUPATION. An accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services-that is clearly customary, incidental, and accessory to the primary residential use.

HOME OCCUPATION SIGN. A sign directing attention to a home occupation.

HOSPITAL. An institution providing persons with intensive medical or surgical care and devoted primarily to the diagnosis and treatment of disease or injury, maternity cases, or mental illness.

HOTEL. A building containing eight or more guest rooms in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and where ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

**IDENTIFICATION SIGN or NAMEPLATE. Any sign which states the name and/or address of the business or occupant of the lot or building where the sign is placed or may be a directory listing the names, addresses, and/or businesses of occupants. IDENTIFICATION SIGNS shall contain no advertisement.

—ILLUMINATED SIGN. Any sign which is designed to be or is lighted by an artificial light source either directed upon it or illuminated from an interior source. All ILLUMINATED SIGNS shall have light sources shielded to confine direct illumination to the face area of the sign.

IMPERVIOUS SURFACE. Any structure or surface which interferes to any degree with the direct absorption ofdoes not readily absorb water into the ground or retain water, including but not limited to buildings, roofs, sidewalks, paved driveways and parking areas, patios, tennis courts, swimming pools, or any other similar surface.

INDUSTRY. An enterprise which involves the production, processing, or storage of materials, goods, or products.

* INFORMATION SIGN. Any sign giving information to employees, visitors, or delivery vehicles, but containing no advertising or identification.

-INSTITUTIONAL SIGN. A sign and/or reader board which identifies the name and other characteristics of an institutional use located within any zoning district and allowed by this chapter. INSTITUTIONAL SIGNS shall contain no advertisement. Examples: churches, schools, sanitariums, hospitals, government buildings, or nursing homes.

—INTEGRAL SIGN. A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets, and the like, when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure.

JUNK YARD. An area where used, waste, discarded, or salvaged equipment or materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles, and lumber. A **JUNK YARD** includes an automobile wrecking or dismantling yard, but does not include uses established in conjunction with a permitted manufacturing process when within an enclosed area or building.

KENNEL. Any structure or premises on which four or more dogs over four months of age are kept for sale, breeding, profit, boarding, and the like.

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- **LANDSCAPE.** Any changing, rearranging, or adding to the original vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.
- **LOADING SPACE.** The portion of a lot designed to serve the purpose of loading and unloading all types of vehicles.
- **LOT.** A zoning lot, except as the context shall indicate a lot of record, in which case a **LOT** is a lot of record.
- **LOT AREA.** The area of a horizontal plane bounded by the front, side, and rear lot lines, measured within the lot boundaries, but not including any area occupied by the waters of a duly recorded lake or river.
 - LOT, CORNER. A lot situated at the intersection of two streets.
- **LOT COVERAGE.** The area of a zoning lot occupied by the principal building or buildings and accessory structures.
- **LOT DEPTH.** The average horizontal distance between the front and rear lot lines measured within the lot boundaries.
 - LOT, INTERIOR. A lot other than a corner lot.
- **LOT LINE, FRONT.** The boundary of a lot abutting a street. On a corner lot, the shortest street lot line will be the **FRONT LOT LINE**.
- **LOT LINE, REAR.** The boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line.
 - LOT LINE, SIDE. Any boundary of a lot which is not a front lot line or a rear lot line.
- **LOT OF RECORD.** A lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds or Register of Titles prior to adoption of this chapter; or a parcel of land, the deed to which was recorded in the office of Register of Deeds or Register of Titles prior to adoption of this chapter.
- *LOT*, *THROUGH*. A lot having a pair of opposite lot lines along two more or less parallel public streets. On such a lot, both street lines shall be deemed front lot lines.
- **LOT WIDTH.** The horizontal distance between the side lot lines of a lot measured at the building setback line.
- **LOT, ZONING.** A single tract of land which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. A **ZONING LOT OR LOTS** may or may not coincide with a lot of record.
- **MANUFACTURED HOME.** A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the

required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and which complies with the manufactured home building code established by M.S. § 327.31, Subd. 3, as it may be amended from time to time.

MANUFACTURING. To bring something into being by forming, shaping, combining, or altering materials.

MANUFACTURING, ARTISAN. The production of goods by the use of hand tools, light mechanical equipment, or similar means, occurring solely within an enclosed building. A building containing an artisan manufacturing use must have negligible negative impact on the urban fabric, surrounding properties, water resources, air quality, and/or public health. Such uses include, but are not limited to: production of alcohol including certain breweries and microdistilleries as allowed by city code and state law; woodworking and cabinet shops; ceramic studios; jewelry manufacturing; welding and metal fabricators; upholsterers; food processing; and arts and crafts.

MATERIAL, **DURABLE**. A hard-surfaced material such as concrete or asphalt, but not including gravel or crushed rock.

MEASURED WALL. The wall or walls comprising the front building facade.

MIXED USE BUILDING. A structure that contains at least one floor devoted to allowed nonresidential uses and at least one floor devoted to allowed residential uses.

MOBILE HOME. A factory-assembled structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit without permanent foundation; meaning that the support system is constructed with the intent that the **MOBILE HOME** placed thereon will be moved from time to time at the convenience of the owner. A manufactured home is not a mobile home.

MODULAR, PRE-FABRICATED. A dwelling unit which is of closed construction and which is made or assembled in manufacturing facilities on or off the building site for assembly and/or installation on the building site. A **MANUFACTURED DWELLING UNIT** may also mean a building of open construction, made or assembled in manufacturing facilities away from the building site for assembly and/or installation on the building site. This type of structure will be made permanently affixed to the building site, and shall be considered congruous to a one-family dwelling.

-MONUMENT SIGN.

(1) A sign which is attached to or supported by a monument structure which bears entirely on the ground, extending horizontally for a minimum of 80% of the entire length of the sign face. The sign base shall be constructed of any one or combination of the following materials: brick, stone, decorative masonry, plastic, aluminum, colored metals, or decay-resistive wood. The base and supporting material shall constitute at least 25% of the total allowable sign square footage. A reader board may be attached to the *MONUMENT SIGN* but shall not exceed 20% of the area containing the sign copy. The sign copy, reader board, or message shall have a minimum clearance of three feet above grade. The area containing sign

copy, including reader board, and the area of the monument structure itself shall be combined for determining the total square footage and height.

— (2) A sign attached to a retaining wall shall be considered to be a *MONUMENT SIGN* provided the message or copy does not exceed the allowable sign area as specified for the applicable zoning district, and all other provisions for a *MONUMENT SIGN* are met.

MOTEL, MOTOR COURT, or **MOTOR HOTEL.** An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom, located on a single zoning lot and designed for use by transient automobile tourists and furnishing customary hotel services.

- MOTION SIGN. Any sign which revolves, rotates, has any moving parts, or gives the illusion of motion.

MOTOR VEHICLE. Any passenger vehicle, truck, truck-trailer, motorcycle, or recreational vehicle propelled or drawn by mechanical power.

NON-CONFORMING SIGN. A sign which was lawful at the time it was erected but which does not now conform with the regulations of this chapter; also known as a **LEGAL NON-CONFORMING SIGN**.

-NON-PROFIT ORGANIZATION. A corporation formed under M.S. Ch. 317A, as it may be amended from time to time, or similar statute of another state or governing entity, and which is formed for a purpose not involving pecuniary gain to its shareholders or members and paying no dividends or other pecuniary remuneration, directly or indirectly, to its shareholders or members; or a community or civic group such as the Lions Club, League of Women Voters, or the like.

NOXIOUS MATTER OR MATERIAL. Material which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.

NURSING, CONVALESCENT, AND RETIREMENT HOMES. A home for aged, chronically ill, or convalescent persons in which two or more persons not of the immediate family are received, kept, or provided with food, shelter, and care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury <u>_, maternity cases</u>, or mental illness.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

ODOROUS MATTER. Any material or matter that yields an odor which is offensive in any way.

OPEN SPACE. Any open area not covered by structures owned by a person or persons including but not limited to the following uses: required or established yard areas, parking areas, sidewalks, school walks, trails, recreation areas, groundwater recharge areas, flood plain,

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floodway, flood fringe, erodible slopes, woodland, and soils with severe limitations for development.

<u>OWNER OR PROPERTY OWNER</u>. The owner or taxpayer of record according to Hennepin County property tax records.

PARAPET. The part of any wall or wall-like structure entirely above the roof line.

PARKING SPACE, **AUTOMOBILE**. A suitably surfaced and permanently maintained area off the public street right-of-way, either within or outside of a building, of sufficient size to store one standard automobile, but in no event less than 180 square feet, exclusive of passageways, driveways, or other means of circulation.

PARTICULATE MATTER. Dust, smoke, or any other form of airborne pollution in the form of minute separate particles.

PARTY WALL. A wall which divides a structure into two independent buildings.

PENNANT. Attention-getting devices, such as streamers, constructed of paper, cloth, plastic, or other materials; excluding banners and flags.

PERFORMANCE STANDARDS. Criteria established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, glare, or heat, generated by or inherent in uses of land and buildings.

PERMANENT SIGN. Any sign which is not a temporary sign.

PERSON. Any individual, firm, partnership, corporation, company, association, joint stock association, or political body; and includes any trustee, receiver, assignee, or other similar representative.

PLANNING COMMISSION. The Planning Commission of the city.

PORTABLE SIGN. A sign so designed as to be movable from one location to another and which is not permanently attached to the ground, sales display device, or structure.

-PRODUCT IDENTIFICATION SIGNS. A sign that is not necessary to identify a business and identifies a product or service either sold on or off the premises on which the sign is located.

-PROJECTING SIGN. A sign, other than a wall sign, which is affixed to a building and which extends perpendicular from the building wall.

PROPERTY LINES. The lines bounding a zoning lot as defined herein.

PUBLIC ENTRANCE. A passage or opening in a building, which passage or opening is designed primarily to facilitate the ingress or egress of members of the general public who are seeking the goods or services offered therein.

- (1) The term members of the general public shall not include supportive service- and maintenance-related personnel.
- (2) Factors to be used in determining that a passage or opening is a *PUBLIC ENTRANCE* and which will be considered as affirming an entrance to be *PUBLIC* shall include such things as the location and design of the entrance, its role in the city's determination of the

building's street address, and its use by the Postal Service as a delivery point of mail addressed to the building or the use therein.

PUBLIC UTILITY. A person, firm, or corporation, municipal department, board, or commission duly authorized to furnish and furnishing to the public, under federal, state, or municipal regulations, gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

RESTAURANT OR EATING ESTABLISHMENT. An establishment whose principal business is the selling of food and beverages to the customer in a ready to consume state. Restaurants or eating establishments may include, but are not limited to, cafes, coffee shops, and ice cream shops.

RETAIL ESTABLISHMENTS. Establishments primarily engaged in the sale of goods to the general public. Retail uses may include, but are not limited to, bookstores, bakeries, grocery stores, and other similar uses.

- READER BOARD SIGN. The portion of the sign used for removable or changeable letters and numbers to convey messages.
- **REAL ESTATE SIGN.** A business sign placed upon a property advertising that particular property for sale, for rent, or for lease.

RECREATIONAL VEHICLE. Any type of vehicle, either self-powered or drawn by another vehicle, that is used primarily for purposes of recreation or transportation of recreational vehicles, equipment, and the like, including but not limited to campers, motor homes, travel trailers, snowmobiles, camper trailers, motorcycle trailers, snowmobile trailers, horse trailers, and the like.

ROOF. The outside top covering of a building designed to serve as the principal means of enclosing the building interior from descending outside elements such as, but not limited to, rain, snow, and sunlight.

ROOF LINE. The top of the coping or, where the building has a pitched roof, the intersection of the outside wall with the roof.

- -ROOF SIGN. Any sign which is erected, constructed, or attached wholly or in part upon or over the roof of a building.
- -ROTATING SIGN. A sign which revolves or rotates on its axis by mechanical means.

RUMMAGE SALE or **GARAGE SALE**. An infrequent temporary display and sale by an occupant on his or her premises of personal property, including general household rummage, used clothing, and appliances. The persons conducting the sale shall <u>must</u> be residents of the property on which the sale is conducted.

SATELLITE ANTENNA. A structure and all supporting apparatus which is used for receiving satellite signals. If the structure is roof-mounted and exceeds ten feet in height above the highest point of the roof, it is considered a roof-mounted antenna. If the structure is ground-mounted it is considered an accessory structure.

SETBACK.

- (1) For signs, the minimum horizontal distance from the closest part of a sign to the property line, or public street easement or right-of-way.
- (2) For structures, the minimum horizontal distance between the front, rear, or side line of the building or structure (excluding steps, unroofed porches, and overhangs) and the front, rear, or side lot line, unless specifically designated otherwise.

SHOPPING CENTER. An integrated grouping of commercial stores, under single ownership or control.

SIGN. Any letter, word or symbol, poster, picture, reading matter, or representation in the nature of advertisement, announcement, message, or visual communication, other than a **FLAG** or **MURAL** as defined in this section, whether painted, posted, printed, affixed, engraved, or constructed, including all associated brackets, braces, supports, wires, and structures, which is displayed for informational or communicative purposes. This definition shall also include **FLAGS** that exceed the sizes specified by § 153.092(A)(3)(e).

Signs shall be further defined as follows:

_ABANDONED SIGN. Any SIGN and/or its supporting sign structure, which has been removed or whose display surface remains blank for a period of one year or more, or any SIGN which has been erected in violation of this code. SIGNS applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one year or more. Any SIGN remaining after demolition of a principal structure shall be deemed to be abandoned. Any SIGN meeting this definition shall be considered abandoned even if the SIGN is legally nonconforming or authorized pursuant to a conditional use permit or variance.

_ANIMATED SIGN. A SIGN that has any visible moving part, flashing or oscillating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that move, change, flash, oscillate, or visibly alter in appearance in a manner that is not permitted by these regulations. ANIMATED SIGNS do not inherently include ELECTRONIC MESSAGE DISPLAY SIGNS, although it is possible that electronic message display signs be used or programmed as ANIMATED SIGNS.

_ATTACHED SIGN. Any SIGN that lacks a supporting framework and is therefore attached or anchored to any BUILDING or other STRUCTURE; any SIGN that is not a FREESTANDING SIGN.

_AWNING SIGN. A SIGN printed on or in some fashion attached directly to the AWNING material.

BANNER. A **SIGN** constructed of cloth, paper, plastic, or other material upon which copy is written and supported, either between poles or fastened to buildings or other structures, and that is supported or anchored on two or more edges or at three or more corners. **BANNERS** also include such **SIGNS** which are supported by an internal frame (such as an umbrella) or are anchored along one edge or two corners, with weights or supports installed that substantially reduce the reaction of the **SIGN** to wind.

BENCH SIGN. A **SIGN** located on any part of the surface of a bench or a similar type of outdoor furniture or seating, usually placed on or adjacent to a **PUBLIC RIGHT-OF-WAY**.

BUILDING SIGN. Any **SIGN** attached to or supported by any **BUILDING**.

- CLASS A SIGNAGE. Durable and permanent SIGNS including:
- (1) Any SIGN that requires a building or electrical permit to install; and
- (2) SIGNS constructed from wood, plastic, metal, concrete, or other durable, weather-proof materials, with a weather-proof display area; and not otherwise specified as CLASS B or CLASS C SIGNS.
- CLASS B SIGNAGE. Non-durable, impermanent SIGNS including:
- (1) **DEMOUNTABLE LETTER SIGNS**;
- (2) MOVEABLE SIGNS;
- (3) **BANNERS**;
- (4) Other SIGNS not constructed from durable, weather-proof materials; and
- (5) Other *SIGNS*, which, due to design, material, and installation method are temporary in nature. This includes *SIGNS* not displayed or intended to be displayed for a length of 30 days or longer.

CLASS C SIGNAGE.

- (1) Obtrusive, impermanent, moving, or otherwise dynamic SIGNS including:
 - (a) INFLATED SIGNS;
- (b) **FEATHER BANNERS**;
- (c) **PENNANT SIGNS**;
- (d) PORTABLE TRAILERED SIGNS; and
- (e) SHIMMERING SIGNS;
- (2) But excluding *INTERIOR SIGNS* of all types.

__CUMULATIVE MAXIMUM SIGN AREA (CMSA). The total maximum sign area which is allowed on any individual property within the city, and for the proportion of CLASS A, CLASS B, and CLASS C SIGNS as herein defined. Regardless of the allowance for signage in any class, no property, including those with a NONCONFORMING SIGN, may exceed its overall CUMULATIVE MAXIMUM SIGN AREA.

DEMOUNTABLE LETTER SIGN. A **SIGN** with individual letters, numbers, and symbols, but not entire words or phrases, which may be manually removed and replaced on a track or other mounting hardware on the sign. Also commonly known and referred to as a changeable letter sign or arrow sign, although a **DEMOUNTABLE LETTER SIGN** need not include an arrow.

ELECTRICAL SIGN. A SIGN that is powered by electricity.

<u>ELECTRONIC MESSAGE DISPLAY (EMD)</u>. A single SIGN with up to two faces, capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means.

EXTERIOR SIGN. A **SIGN** located on the outside of a **BUILDING**, **STRUCTURE**, or outdoor display area, or located on the interior of a **BUILDING**, but which is primarily intended to be viewed from the exterior of the **BUILDING**.

FEATHER BANNER. A type of elongated **BANNER** and freestanding temporary sign typically made of a flexible fabric or similar material attached to a long rigid pole in the general shape of a feather, teardrop, or similar shape, not to exceed 28 square feet in total area. The definition includes functionally similar display devices. Also commonly known and referred to as a banana banner or teardrop banner.

FLAG. Any fabric or similar lightweight material attached at one edge or no more than two corners of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes, and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices or text. If any dimension of a **FLAG** is more than three times as long as any other dimension, it shall be regulated as a **BANNER** for the purposes of this subchapter.

FLASHING SIGN. A type of **ANIMATED SIGN.** A directly or indirectly illuminated **SIGN** which exhibits changing light or color effect by any means so as to provide intermittent illumination or which includes the illusion of intermittent flashing light by means of animation or any other mode of lighting, which may include, but is not limited to, zooming, twinkling, or sparkling.

<u>FREESTANDING SIGN</u>. Any <u>SIGN</u> which has supporting framework that is placed on or anchored in the ground and which is independent from any <u>BUILDING</u> or other <u>STRUCTURE</u>.

<u>HEIGHT OF SIGN</u>. For *FREESTANDING SIGNS*, the *HEIGHT OF THE SIGN* shall be the vertical distance measured from the base of the *SIGN* at average *GRADE*, to the top of the highest attached component of the *SIGN*. For *SIGNS* attached to *BUILDINGS*, the height shall be the vertical distance from the lowest attached component of the *SIGN* to the highest attached component.

_ILLUMINATED SIGN. Any SIGN illuminated by a source of light which is directly cast upon the exterior surface or face of the SIGN and intended to illuminate the SIGN by reflection, or which is illuminated from within or behind the SIGN so as to reflect or emanate light through the SIGN.

INFLATED SIGN. A **SIGN** consisting of a bag made of lightweight material supported by helium, hot, or pressurized air, which is secured to the ground or a **STRUCTURE** in some fashion, and which is greater than 18 inches in diameter.

<u>INTERIOR SIGN</u>. A SIGN which is located within the interior of any BUILDING or within an enclosed lobby or court of any BUILDING and which is primarily intended to be viewed from the interior of the BUILDING.

_MONUMENT SIGN. Any FREESTANDING SIGN with its SIGN FACE mounted on the ground or mounted on a base, subject to the height limitations of the zoning district in which it is located.

__MOVEABLE SIGN. A temporary SIGN, made of vinyl, paper, cloth or fabric, corrugated plastic, cardboard, plywood, or similar material, including SIGNS with wood or wire framing, posts, or stakes, supported by the ground but not permanently attached to the ground, which can be regularly moved from a location at periodic intervals, and which has a total height not exceeding four feet and a total area not exceeding six square feet. The term includes SANDWICH

BOARD SIGNS. The term does not include **BANNERS**. A **MOVABLE SIGN** is not considered to be a **PORTABLE TRAILERED SIGN**.

<u>MURAL</u>. An image painted or applied on the exterior of a <u>BUILDING</u> wall or other permanent <u>STRUCTURE</u> and for which no more than 5% of the total area covered by the <u>MURAL</u>, or 100 square feet (whichever is less), consists of text.

NONCOMMERCIAL SPEECH. Speech not defined as **COMMERCIAL SPEECH** which includes, but is not limited to, speech concerning political, religious, social, ideological, public service, and informational topics.

_NONCONFORMING SIGN. A SIGN which was lawful at the time of its construction but does not now conform to this subchapter.

_OFF-PREMISE SIGN. A COMMERCIAL SPEECH SIGN which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same PROPERTY where such SIGN is located.

_OVERHANG SIGN. A SIGN that overhangs sidewalk rights-of-way a maximum of one and one-half feet, with a minimum clearance of eight feet between the bottom of the OVERHANG SIGN and the sidewalk surface.

PENNANTS. Pieces of cloth, paper, plastic, or similar material intended to be individually supported or attached to each other by means of rope, string, or other material and intended to be hung on **BUILDINGS** or other **STRUCTURES** or between poles, and does not include any written material, graphic, or other form of copy.

PENNANT SIGN. A display of **PENNANTS** on one **PROPERTY** that exceed the sizes specified by § 153.092(A)(3)(e).

PORTABLE TRAILERED SIGN. Any SIGN which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another SIGN or attached temporarily or permanently to the ground. A SIGN mounted on a vehicle identifying a business when the vehicle is being used in the normal day to day operation of that business is not subject to the regulations set forth in this section, provided the vehicle is in operable condition, carrying a current, valid license tag, and the vehicle does not remain parked at the same location for 48 continuous hours. BANNERS, MOVABLE SIGNS, PENNANTS, PENANT SIGNS, and SANDWICH BOARD SIGNS shall not be considered PORTABLE TRAILERED SIGNS for the purpose of this subchapter.

PYLON SIGN. Any freestanding **SIGN** which has its supportive structure(s) anchored in the ground and which has a **SIGN FACE** elevated above ground level by pole(s) or beam(s) more than eight feet and with the area below the **SIGN FACE** open.

ROOF SIGN. Any **SIGN** erected and constructed wholly on or above the **ROOF** or parapet of a **BUILDING** or **STRUCTURE** and which is supported by the roof structure.

<u>SANDWICH BOARD SIGN</u>. A type of <u>MOVEABLE SIGN</u> that is a freestanding, self-supporting <u>SIGN</u> hinged at the top, or attached in a way that forms a shape similar to the letter "A" when viewed from the side, also commonly known and referred to as an A-frame sign or a springboard sign.

_SEASONAL, HOLIDAY, and FESTIVE DECORATION. HOLIDAY or FESTIVE shall mean a calendar date or dates associated with a specific event or season including, but not limited

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to, New Year's Day, Martin Luther King Jr. Day, Valentine's Day, Passover, Holi, Ramadan, Easter, Memorial Day, Independence Day, Labor Day, Halloween, Thanksgiving, Hanukah, Christmas, Kwanza; *DECORATION* shall mean ornaments, figures, statutes, inflatable characters, seasonal lighting, and related products that are placed on a property for a temporary period of time in observance of a holiday or festival.

_SHIMMERING SIGN. A type of ANIMATED SIGN which reflects an oscillating or sometimes distorted visual image.

TOTAL SITE SIGNAGE. The maximum combined area of all SIGNS allowed on a site.

<u>WALL SIGN.</u> Any <u>BUILDING SIGN</u> attached parallel to, painted on the surface of, or erected on, and confined within the limits of, an outside wall of any <u>BUILDING</u> or <u>STRUCTURE</u>, which is supported by such <u>WALL</u> or <u>BUILDING</u>, and which displays only one <u>SIGN</u> surface.

_WINDOW SIGN. A SIGN affixed to or inside of a window in view of the general public. This does not include merchandise on display.

Any object, device, display, structure, or part thereof, situated outdoors or indoors, which is displayed to attract the attention of the public while on public streets, highways, or walkways to the object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. *SIGNS* do not include flags of any nation, state, city, religion, or fraternal or civic organization, merchandise and pictures or models of products or services incorporated in a window display, works of art which in no way identify a product, scoreboards on athletic fields, sound trucks or other moving advertising media while operated on a public right of way, official traffic signs or symbols, banners announcing civic celebrations or events of special interest, mounted house numbers under 12 inches in height, mounted nameplates or building address numbers under six square feet in area identifying the occupants or address of a building, or address or public information signs displayed for the convenience of the traveling public, when established by a public agency. *SIGNS* also do not include murals, color schemes, or facade patterns which by themselves would not convey a message about business or product without other sign elements present.

-SIGN, ADVERTISING. A sign which directs attention to a business, service, event, or location not related to the premises where the sign is located.

- SIGN, MAXIMUM HEIGHT OF. The vertical distance measured from the grade to the top of the sign.

-SIGN, MINIMUM HEIGHT OF. The vertical distance measured from the nearest finished grade to the lower limit of the sign.

-SIGN STRUCTURE. The supports, uprights, bracing, and framework for a sign, including the sign area.

SITE AREA. The area of a parcel or parcels of land to be developed under the R-2 and R-3 district regulations and to be developed as part of a single development action or a single stage of a staged development.

SPECILAIZED CARE FACILITIES. Any facility whose primary function is the provision, on a continuing basis, of nursing services and health related services for treatment and in patient care, such as nursing homes, memory care facilities, and hospices. This does not include senior housing or the residence of any individual who cares for another family member.

STREET, ARTERIAL. A street which provides for traffic movement to and from municipalities and the surrounding areas, to and from freeways or expressways and collector streets, and between major parts of an urban area. Intersections are at grade and direct access to abutting property should be avoided.

STREET, COLLECTOR. A street which collects and distributes the internal traffic within an area of a community such as a residential neighborhood or industrial district, and between arterial and local streets. It provides some access to abutting property.

STREET FRONTAGE. The proximity of a parcel of land to one or more streets. An interior lot has one STREET FRONTAGE and a corner lot has two STREET FRONTAGES.

STREET, LOCAL. A street of little or no continuity, designed to provide access to abutting property and leading into collector streets.

STRUCTURAL ALTERATION. Any change, other than incidental repairs, which would prolong or increase the life of the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

STRUCTURE. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, retaining walls, or fences.

SWIMMING POOL. Any outdoor structure, basin, chamber, or tank containing an artificial body of water for swimming, diving, or recreational bathing used in connection with a residential dwelling and having a depth of more than 24 inches at any point and a surface area exceeding 150 square feet.

- TEMPORARY SIGN. Any sign which is erected or displayed with or without a permit for a specified period of time (such as banners, portable signs, searchlights, trucks, trailers, window signs, and the like).

TOWER. A pole, spire, or structure, or any combination thereof, to which an antenna is attached, including supporting lines, wires, and braces.

TOWNHOUSE. A one-family dwelling unit horizontally attached to one or more similar dwelling units in a linear arrangement and structured on individual lots. Features of **TOWNHOUSES** are their private yards and private

entrances. A *TOWNHOUSE* development normally includes common open space for athletic and recreational purposes. *TOWNHOUSES* by this definition do not include multiple units in a single structure such as triplexes, four-plexes, or apartment buildings.

TOXIC MATTER OR MATERIAL. Those materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

TRAVEL TRAILER. A vehicular portable structure, built on a chassis, designed to be used as a temporary dwelling for travel, recreation, and vacation uses.

Commented [5]: How does this conflict with "Nursing, Convalescence, and Retirement Homes" above? Also, I do not see where this appears again in the chapter

TRIANGLE. The triangular area defined as follows: beginning at the point of intersection of the rights-of-way of two intersecting streets or one intersecting street and one alley, thence 20 feet along one right-of-way line, thence diagonally to a point on the other right-of-way line 20 feet from the point of beginning, thence to the point of beginning.

UNLAWFUL SIGN. A sign which exists prior to or after the passage of this chapter or amendments thereto, which does not conform with the regulations of this chapter and is not an existing legal sign and is not a sign erected with a sign permit.

—USABLE OPEN SPACE. The required portion of a lot at ground level, unoccupied by buildings, and available to all the occupants of the building. This space of minimum prescribed dimensions shall not be devoted to service driveways or off street parking space or loading borths but shall be usable for greenery, recreational space, and other leisure activities normally earried on outdoors.

USE. The purpose or activity for which the land or buildings thereon is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of performance of that activity with respect to the performance standards of this chapter.

USE, ACCESSORY. A use subordinate to the principal use or building on the same lot and customarily incidental thereto as well as attached or detached therefrom which is:

(a) Is subordinate to and serves a principal building or principal use;

(b) Is subordinate in area, extent, and purpose to the principal structure or principal use as served; and

(c) Is located on the same lot as the principal structure or principal use served and except as otherwise expressly authorized by this chapter.

USE, CONDITIONAL. A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to public health, safety, or general welfare. A use, either public or private, which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district. After due consideration in each case of the impact of that use upon neighboring land, and the public need for the particular use at the particular location, the CONDITIONAL USE may or may not be granted.

USE, **INTERIM**. A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

USE, *INCOMPATIBLE*. A use which is contradictory, incongruent, or discordant with certain other uses.

USE, *NON-CONFORMING*. Any use of land, buildings, or structures lawfully existing at the time of adoption of this chapter which does not comply with all the regulations of this chapter or any amendments hereto governing the zoning district in which the use is located.

USE, *PERMITTED*. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards, if any, of the district or districts.

Commented [**6**]: The last sentence seems to go beyond the definition.

USE, *PRINCIPAL*. The main use of land or buildings, as distinguished from a subordinate or accessory use. A principal use may be permitted or conditional or interim.

UTILITY ENTRANCE. A passage or opening in a building which is not a public entrance as defined herein.

VERMIN. Pests or nuisance animals that spread diseases; destroy crops, livestock, or other property; (e.g., rodents, insects).

VARIANCE. A modification or variation of the provisions of this chapter as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a **VARIANCE**.

WALL. The building facade area that defines the front of the building. The front is the continuous line of a building that connects side wall to side wall and faces one public right-of-way. For a multi-tenant building on a corner lot, the front is the continuous line of a building which faces either a public right-of-way or a private road in a planned unit development.

- WALL GRAPHICS. A sign which is painted directly on an exterior wall surface.

-WALL SIGN. A sign which is affixed to the exterior wall of a building and which is parallel to the building wall. A WALL SIGN does not project more than 12 inches from the surface to which it is attached, nor extend beyond the top of the parapet wall.

WAREHOUSING. The commercial storage of merchandise and personal property.

WHOLESALING. A business engaged in selling to retailers or jobbers rather than consumers.

-WINDOW SIGN. A sign affixed to or inside of a window in view of the general public. This does not include merchandise on display.

WORKSHOP. An accessory residential use for the creation of individual crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, handwoven articles, and related items. A workshop may be either an accessory use within the principal building or may be an accessory building on the property.

YARD. The horizontal distance between the principal structure and a lot line, as measured perpendicular to the lot line. Eaves are not to be considered part of the principal structure for the purpose of determining the location or extent of a yard.

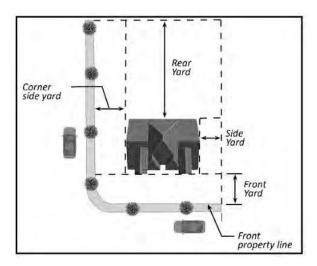


Figure 5: Illustration showing yard locations

An open space on the same zoning lot with a building or structure, which *YARD* is unoccupied and unobstructed. A *YARD* extends along a lot line and to a depth or width measured from the lot line specified in the *YARD* requirements for the zoning district in which the zoning lot is located.

YARD, FRONT. A yard extending along the full width of the front lot line between the side lot lines.

YARD, REAR. A yard extending along the full width of the rear lot line between the side lot lines.

YARD, SIDE. A yard extending along a side lot line from the front yard to the rear yard.

ZONING MAP. The map setting forth the boundaries of the zoning districts of the city, which map is a part of this chapter.

ZONING OFFICER. The Zoning Officer of the city as duly appointed by the City Council. (1997 Code, § 25.06) (Ord. passed 11-14-1994; Am. Ord. 2005-3, passed 4-11-2005; Am. Ord. 2017-3, passed 9-11-2017)

■§ 153.010 SEPARABILITY.

It is hereby declared to be the intention of the City Council that the several provisions of this chapter are separable in accordance with the following.

Commented [7]: We do not specify yard requirements for zoning districts...we do, however, have setback requirements. Are they the same thing? Should the definition be updated?

Commented [8]: They are not the same. Setbacks refer to the distance between a structure and the lot line while a yard refers to the distance between the principal structure. So, in theory, an accessory structure would be impacted by setback requirements, but not by yard requirements.

You could update yard definitions to be in line with Crystal's since you are using Figure 5, and the Crystal definitions refer to Figure 5.

- (A) If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, the judgment shall not affect any other provisions of this chapter not specifically included in that judgment.
- (B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building, or other structure, the judgment shall not affect the application of that provision to any other property, building, or structure not specifically included in that judgment.

(1997 Code, § 25.07) (Ord. passed 11-14-1994; Am. Ord. 2005-3, passed 4-11-2005)

ZONING DISTRICTS AND MAPS

■§ 153.020 ZONING DISTRICTS ESTABLISHED.

The following zoning classifications are hereby established within the city:

- (A) PI, public institution district;
- (B) R-1, one- and two-family residential district;
- (C) (B) R-2, multiple-family residential district;
- (D) EMX, Edge [New-mixed-use residential district]
- (C)(E) CBD, central business district;
- (D)(F) C-2, highway commercial district; including C-2 North and C-2 South districts and
- (E)(G) M, manufacturing and industrial district.

(1997 Code, § 25.07) (Ord. passed 11-14-1994)

§ 153.021 ZONING MAP ESTABLISHED.

The location and boundaries of the districts established by this text are hereby set forth on the zoning map entitled Zoning Map of the city, and is attached hereto as Appendix D.

(1997 Code, § 25.07) (Ord. passed 11-14-1994)

■§ 153.022 DISTRICT BOUNDARY INTERPRETATION.

- (A) The location and boundaries of each zoning district established by this chapter are as set forth in zoning district sections of this chapter or and are shown on the official Zoning Map.
- (B) Where uncertainty exists as to the boundaries as shown on the official Zoning Map, the following rules will apply.
- (1) Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow those center lines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following those lot lines.
- (3) Boundaries indicated as approximately following city limits boundaries shall be construed as following those city limits boundaries.

Commented [9]: Update language?

Commented [10]: Example:

Crystal Code Section 500.11. Severability. If any section, subsection, sentence, clause, or phrase of this UDC is for any reason held to be invalid by a court of competent jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this UDC. The city council hereby declares that it would have adopted this UDC in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as parallel to or extensions of features indicated in § 153.131 of this code, regarding non-conforming lots of record, shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- (6) Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by § 153.131 of this code, regarding non-conforming lots of record, the Board of Appeals shall interpret the district boundaries.
- (7) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Board of Appeals may permit, as a special exemption, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(1997 Code, § 25.07) (Ord. passed 11-14-1994)

ZONING DISTRICTS; REQUIREMENTS AND USES

§ 153.034 PUBLIC INSTITUTION DISTRICT, PI.

- (A) *Intent*. The intent of this district is to provide for public buildings, facilities, and land areas which are owned, controlled, regulated, used or proposed to be used by the city for the purposes of serving the residents and the community members of the city.
 - (B) Permitted uses.
- (1) Municipal buildings and structures, including City Hall, Fire Department, Police Department, City or County Library, Public Services facilities, Community Center, recreation centers, lift stations, ice skating warming houses, water towers, and any other governmental office buildings or facilities;
 - (2) Public parks, playgrounds and athletic fields or ice skating rinks;
 - (3) Off-street parking areas, provided they are open to the general public;
- (4) Outdoor storage of equipment, landscaping materials, sand/salt materials or other public street improvement materials;
 - (5) Historical sites;
 - (6) Cellular telephone or communications towers and/or antennas;
 - (7) Commercial signage limited to billboards or any other governmental signage; and
 - (8) Any other uses determined by the city to be the same or similar type uses.
 - (C) Conditional uses.
- (1) Religious institutions, such as chapels, temples, synagogues, and mosques limited to worship and related social events;

- (2) Outdoor recreation areas, such as golf courses, private/public swimming pools, and private community clubs;
 - (3) Cemeteries or memorial gardens; and
 - (4) Any other uses determined by the city to be the same or similar type uses.

(Ord. 2014-4, passed 12-8-2014)

§ 153.035 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT, R-1.

- (A) *Intent*. To recognize fully or partially developed one- and two-family residential areas including supporting public and semi-public facilities, to provide for future development of a similar nature, and to protect the desired low intensity living environment from encroachment by conflicting land uses.
 - (B) Permitted uses.
- (1) One- and two-family detached dwellings, including manufactured homes, with an attached or detached private garage;
 - (2) Customary accessory uses incidental to the permitted residential uses, such as:
 - (a) Screen houses; and
 - (b) Private recreational facilities such as swimming pools and tennis courts:
- (c) #Rummage sales, provided no more than 4 sales are held per property per calendar year, each lasting no more than 3 consecutive days and that exchange or sale of merchandise is conducted inside the garage or one-half the required setback length from the street.
 - (3) Home occupations;
- (44) Licensed day care or residential facilities <u>permitted as single family residential uses per M.S. 462.357 and as it may be revised from time to time;</u> and
 - (55) Essential structures and uses.
 - (C) Conditional uses.
 - (1) Public and semi-public facilities such as ehurches religious institutions, schools, and parks of a non-commercial nature; and-
 - (2) Manufactured home parks, per M.S. 462.357.
 - (D) Lot requirements and standards. Refer to Appendix A of this chapter.

(1997 Code, § 25.08) (Ord. passed 11-14-1994)

■§ 153.036 HIGH-DENSITY RESIDENTIAL DISTRICT, R-2.

(A) *Intent.* To recognize the demand for apartment, condominium, and multiple-family dwellings; to provide for these apartments upon fairly sizable tracts of land, thereby allowing increased design flexibility and a more compatible development pattern; and to permit these apartments at densities high enough to allow high quality development yet low enough to provide a desirable living environment for residents.

- (B) Permitted uses.
 - (1) Multiple-family dwellings-of three or more dwelling units per structure; and
 - (2) Customary accessory uses incidental to the permitted residential uses such as private garages and private recreational facilities such as swimming pools and tennis courts.
- (C) Conditional uses.
 - (1) Essential service structures and uses;
- (2) Public and semi-public facilities such as <u>churches</u>religious <u>institutions</u>, schools, and parks of a non-commercial nature;
 - (3) Nursing, convalescent, and retirement homes; and
 - (4) Health care facilities, including hospitals and medical and dental clinics.
- (5) Licensed day care or residential facilities permitted as multifamily residential uses per M.S. 462.357 and as it may be revised from time to time

(D)

(E) Lot requirements and standards. Refer to Appendix A of this chapter.

(1997 Code, § 25.08) (Ord. passed 11-14-1994)

§ 153.XXX NewEdge Mixed-Use Residential District, EMX.

- (A) Intent. The intent of this district is to accommodate uses that are predominantly residential in nature and mixed-use buildings with neighborhood-serving retail, entertainment, civic, institutional, and office uses in key ground-floor locations and residential uses between and above the nonresidential space. The ground level shall be pedestrian-oriented and shall promote the health and well-being of residents by encouraging physical activity, alternative transportation, and social interaction. Development in the district shall facilitate transition between commercial areas and nearby neighborhoods.
- (B) Permitted Uses. Multi-family residential uses and limited commercial uses within mixed use buildings. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (1) All permitted uses in the Central Business District (CBD), provided that such uses are combined with other principal permitted or conditional uses when within a mixed-use building, and that the gross floor area occupied by any such single use shall not exceed the gross floor area of the ground floor.
 - (2) All Permitted Uses in the High Density Residential District (R-2).
- (C) Conditional Uses. Commercial uses. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (1) Permitted Uses in the Central Business District (CBD) occupying more than the gross floor area of the ground floor when within a mixed use building;

Commented [11]: "Three or more dwelling units" is part of the definition, so you wouldn't need to repeat it here.

- (2) Conditional uses in the Central Business District (CBD). with the exception of § 153.037(C)(8) Commercial businesses intending to sell or serve liquor as part of regular business and § 153.037(C)(9) Artisan manufacturing businesses;
- (E) Lot requirements and standards. Refer to Appendix A of this chapter.
- (F) Building Performance Standards. Development shall be substantially compliant with the Architectural Design Guidelines for Osseo Business Districts, copies of which are available at City Hall, regarding Height, Setbacks/Building Siting, Fenestration, Rhythm/Continuity, Materials, Detailing, Lighting, Rear Entrances, and Parking. Substantial compliance shall be determined as part of § 153.153 Site and Building Plan Approval.
- (G) Site Performance Standards
- (1) Open Space. When public open space is provided on site in a manner consistent with that outlined in the Comprehensive Plan, a height bonus may be considered upon approval of the City Council. The intent of the bonus is to encourage the provision of public open space and amenities.
 - (2) Fencing. Requirements shall be the same as for the R2 District.
 - (3) Landscaping and Outdoor Storage and Screening. Requirements shall be the same as for the Central Business DistrictCBD.
 - (4) Off-street vehicular parking shall be provided in accordance with Appendix B: Off-Street Parking Space Requirements, with the following exceptions:
 - (a) One off-street parking space must be provided for each dwelling unit.
 - (b) No off-street parking is required for non-residential uses in the district unless such uses exceed 3,000 square feet of gross floor area in which case off-street parking must be provided for the floor area in excess of 3,000 square feet.
 - (c) Off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to not be visible from public streets or residential zoning districts.
 - (5) Bicycle Parking.
 - Applicability. Bicycle parking shall be provided for all new commercial, industrial, community service use, and multifamily residential development [in the EMX District].
 Quantity of Spaces
 - The quantity of required bicycle parking spaces shall be as described in this subsection. In no case shall fewer than two (2) spaces be required.
 - Unless otherwise specified, the number of bicycle parking spaces shall be at least 10% of the minimum required motor vehicle parking for the use, up to 30 bicycle parking spaces.
 - Multifamily residential development with 4 or more units shall provide 1 space per unit.
 - Covered or enclosed bicycle parking. A minimum of 50% of the bicycle spaces shall be covered and/or enclosed (in lockers or a secure room) in any of the following situations:
 - When 10% or more of automobile parking is covered.
 - If more than 10 bieyele parking spaces are required.

- Multifamily residential development with 4 or more units.
- Bicycle Parking Standards. Each required bicycle parking space must be accessible without moving another bicycle and its placement shall not result in a bicycle obstructing a required walkway. Bicycle racks shall be permanently installed to the manufacturer's specifications, including the minimum recommended distance from other structures. In addition:
 - Bicycle parking facilities shall meet the following requirements:
 - Securely anchored to a hard, durable surface.
 - Located within 50 feet of the main building entrance.
 - Designed to provide direct access to a public right of way.
 - Dispersed for multiple entrances.
 - In a location that is visible to building occupants or from the main parking area.
 - Designed not to impede pedestrians along sidewalks or public rights of
 - Separated from motor vehicle parking areas by curbing or other similar physical barriers.
- To the extent feasible, property owners are encouraged to conform to the Association of Pedestrian and Bicycle Professionals (APBP) Guidelines, copies of which are available at City Hall.
- The public right of way may be utilized for bicycle parking when parking cannot be reasonably accommodated on the site and the location is convenient to the building's main entrance. The bicycle parking area in the right of way when bicycles are parked must leave a clear, unobstructed four foot width of sidewalk if present and be approved by the Public Works Director. A right-of-way permit is required.
- Alternative Compliance. The City may approve alternative compliance from the provisions of this Section, which may include, but need not be limited to, a reduction or deviation in the number, type, or location of the required bicycle parking. Considerations used in the determination to grant or deny alternative compliance may include, but are not limited to, existing site constraints, proximity to existing bicycle parking, and the nature of the proposed building or use.

■§ 153.037 CENTRAL BUSINESS DISTRICT, CBD.

- (A) Intent. The intent of this district is to accommodate central business type uses that include joint-use parking areas and business uses primarily oriented to the walking public.
 - (B) Permitted uses.
- (1) Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
- (a) Retail establishments such as grocery, hardware, drug, clothing, appliances, furniture stores, and restaurants;

- (b) Personal services such as laundry, barber, shoe repair, beauty salon, and photography studio;
- (c) Professional <u>personal</u> services such as medical clinics, dental clinics, law offices, and accounting offices <u>+operating</u> with a license from the City of Osseo, Hennepin County, or the <u>State of Minnesota</u>;
 - (d) Finance, insurance, and real estate services;
 - (e) General commercial office space; and
 - (f) Repair services such as jewelry, radio, and television repair shops (not auto repair).
- (2) Public and semi-public facilities serving all or portions of the city, such as municipal offices, library, and post office;
- (3) Apartments, if located above the street level in non-residential mixed-use buildings structures;
 - (4) Essential service structures and uses; and
 - (5) Any other uses determined by the city to be the same or similar type uses.
- (C) *Conditional uses*. Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
- (1) Essential service structures and uses;
- (2) Entertainment and amusement services such as arcades, billiards, bowling alleys, lounges, clubs, and lodges;
- (3) Private institutions (e.g., religious institutions, convalescent housing, infirmaries, nurseries, and schools);
 - (4) Dry cleaning;
 - (5) Blueprint and photocopying establishments;
 - (6) Pet shops;
- (7) Seasonal businesses, including locations where Transient Merchants conduct their ransactions;
- (8) Commercial businesses such as on- or off-sale liquor establishments (taverns, pubs) and restaurants intending to sell or serve liquor as part of regular business;
 - (9) Artisan manufacturing businesses;

(10) Professional personal services businesses (e.g., massage therapy, body art establishments, etc), when operating without a license from the City of Osseo, Hennepin County, or the State of Minnesota; and

(10) Any other uses determined by the city to be the same or similar type uses.

Commented [12]: Listed under both Permitted and Conditional Uses—what is the intent? I suggest taking out this reference—it's not a "Commercial establishment"

Commented [13]: Unless there needs to be some differentiation between governmentally owner and privately owed essential structure services – as outlined in 153.007

Commented [NA14R13]: 153.007 says that Governmentally owned essential services are exempt from the application of this chapter—so I assume both instances are referring to privately owned essential services.

Commented [**15**]: Does this conflict with the "Convalescent, Nursing, and Retirement" definition above

Commented [**16**]: Transient Merchant is not defined above and may be an antiquated term.

Commented [17]: But I believe it's defined elsewhere in city code.

(D) Lot requirements and standards. Refer to Appendix A of this chapter.

(1997 Code, § 25.08) (Ord. passed 11-14-1994; Am. Ord. 2005-3, passed 4-11-2005; Am. Ord. 2010-3, passed 6-28-2010; Am. Ord. 2017-3, passed 9-11-2017)

■§ 153.038 HIGHWAY COMMERCIAL DISTRICT, C-2.

- (A) Highway Commercial District, C-2 North.
- (1) *Intent*. The intent of this district is to accommodate service type business uses primarily oriented to the driving public with needed parking facilities provided on site by the owner.
- (2) *Permitted uses.* Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (a) Uses permitted within the central business districtCBD;
 - (b) Auto accessory stores; and
 - (c) Any other uses determined by the city to be the same or similar type uses.
- (3) *Conditional uses*. Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (a) Conditional uses permitted in the CBD;
- (b) Major auto service stations that include facilities for chassis and gear lubricating, and car washing;
- (c) Garages for the storage and repair of vehicles including body repair and painting, but not including vehicle wrecking yards;
 - (d) Live bait stores;
- (e) Outdoor motor vehicle sales, recreational vehicle sales, truck sales, and motorcycle sales, which meet all of the following requirements:
 - 1. Minimum lot size of one acre;
 - 2. Minimum building size must be at least 10% of lot size;
 - 3. Business must have own building and separate from any other use on the property;
 - 4. Area used for sales must be separate and in addition to off-street parking area; and
- 5. All vehicle repair and maintenance must take place within a completely enclosed building. Repaired vehicles or vehicles waiting to be repaired shall be considered storage and must be within a screened or enclosed area.
- (f) Indoor motor vehicle, recreational vehicle, truck and motorcycle sales, which meet-all of the following requirements;

- 1. All vehicle repair and maintenance must take place within a completely enclosed building. Repaired vehicles or vehicles waiting to be repaired shall be considered storage and must be within a screened or enclosed area.
 - (g) Mortuaries;
 - (h) Drive in businesses, auto repair and service, which meet the following requirement:
 - 1. Minimum lot size of .5 acre;
 - (i) Automobile detailing and/or washing; and
 - (j) Any other uses determined by the city to be the same or similar type uses.
 - (4) Lot requirements and standards. Refer to Appendix A of this chapter.
 - (B) Highway Commercial District, C-2 South.
- (1) *Intent*. The intent of this district is to accommodate service type business uses primarily oriented to the driving public with needed parking facilities provided on site by the owner.
- (2) *Permitted uses.* Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
- (a) Uses permitted within the <u>central business districtHighway Commercial C-2 North District</u>;
- (3) Conditional uses. Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (a) Conditional uses permitted in the <u>Highway Commercial C-2 North District</u>;
- (b) Major auto service stations that include facilities for chassis and gear lubricating, and car washing;
- (c) Garages for the storage and repair of vehicles including body repair and painting, but not including vehicle wrecking yards;
 - (d) Live bait stores;
- (e) Outdoor motor vehicle sales, recreational vehicle sales, truck sales, and motorcycle sales, which meet all of the following requirements:
 - 1. Minimum lot size of one acre;
 - 2. Minimum building size must be at least 10% of lot size;
 - 3. Business must have own building and property;
 - 4. Area used for sales must be separate and in addition to off-street parking area; and

Commented [18]: ?

Commented [19]: Also, "?". Could this refer to a type of auto shop where the customer drives their car into a stall instead of the service professional? This could explain why there needs to be a different lot size. Regardless, it can be removed or left in.

- 5. All vehicle repair and maintenance must take place within a completely enclosed building. Repaired vehicles or vehicles waiting to be repaired shall be considered storage and must be within a screened or enclosed area.
 - (f) Indoor motor vehicle, recreational vehicle, truck, and motorcycle sales;
- (g) Mortuaries;
- (h) Drive in businesses, auto repair and service, which meet the following requirement:
 - 1. Minimum lot size of .5 acre;
 - (i) Automobile detailing and/or washing;
 - (jb) Warehousing and shipping of warehoused goods; and
 - (kc) Any other uses determined by the city to be the same or similar type uses.
- (4) Lot requirements and standards. Refer to Appendix A of this chapter.

(1997 Code, §25.08) (Ord. passed 11-14-1994; Am. Ord. 2005-3, passed 4-11-2005; Am. Ord. 2008-3, passed 2-11-2008; Am. Ord. 2010-3, passed 6-28-2010; Am. Ord. 2014-1, passed 2-10-2014)

§ 153.039 MANUFACTURING AND INDUSTRIAL DISTRICT, M.

- (A) *Intent*. The intent of this district is to provide land in proximity to major thoroughfares for the development of certain manufacturing and industrial activities that will strengthen the local employment opportunity and tax base in the city.
- (B) *Permitted uses*. Manufacturing and industrial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (1) Uses permitted within the C-2, highway commercial district;
- (2) Fabricating, manufacturing, production, processing, and storage of material goods and products, subject to the performance standards set forth in § 153.050 of this code and as set forth in the rules and regulations of the Minnesota Pollution Control Agency;
 - (3) Motor freight terminals;
 - (4) Research, electrical and metallurgical, but not chemical;
 - (5) Public uses and public utility facilities; and
 - (6) Any other uses determined by the city to be the same or similar type uses.
 - (C) Conditional uses.
- (1) Conditional uses permitted within the C-2, highway commercial district, with the exception of $\S 153.038(C)(5)$ motor vehicle, recreational vehicle, truck, and motorcycle sales;
 - (2) Manufacturing and sale of concrete products;

- (3) Manufacturing of miscellaneous building materials (such as, prefabricated housing, wallboard, partitions, and panels);
 - (4) Metal fabrication;
 - (5) Storage of the following:
 - (a) Coal and gas; or
 - (b) Auto wrecking, junk, and salvage.
 - (6) Sexually oriented businesses;
- (7) Uses not specifically set forth herein which in the opinion of the City Council would be compatible with the area in which located and which would not constitute a public nuisance, and which would not materially affect sewer capacity.
 - (D) Lot requirements and standards. Refer to Appendix A of this chapter.

(1997 Code, § 25.08) (Ord. passed 11-14-1994; Am. Ord. 2006-4, passed 5-8-2006; Am. Ord. 2008-3, passed 2-11-2008; Am. Ord. 2010-3, passed 6-28-2010)

As 153.040 providing for a moratorium on granting conditional use permits for a use associated with automotive repair or outdoor storage or sales of recreational vehicles or trailers, trucks or automobiles in the highway commercial district (C 2) and in the manufacturing and industrial district (M).

-(A) Authority. Pursuant to M.S. § 462.355, Subd. 4, the city is authorized to establish interim ordinances to regulate, restrict or prohibit any use or development in all or part of the city while the city is conducting studies, or has authorized a study to be conducted, or has scheduled a hearing to consider adoption or amendment of the comprehensive plan or official zoning controls. In furtherance of this statutory authority, the city has adopted <u>Chapter 153</u>, the zoning ordinance, including § <u>153.152</u> governing amendment of the zoning ordinance. The city declares that this interim section is adopted pursuant to M.S. § 462.355, Subd. 4, and the applicable provisions of Osseo Code of Ordinances, Chapter 153.

(B) Findings and purpose.

— (1) The City Council is concerned about the effects of conditional uses in the Highway Commercial District (C 2) and in the Manufacturing and Industrial District (M), especially as certain conditional uses are incompatible with the design and use of permitted uses in these districts and may detract from the desirability of these districts as places to establish businesses that are permitted uses in these districts. The City Council is also concerned that certain conditional uses may negatively affect the elimination of blighted properties. The City Council is also concerned that certain conditional uses may negatively impact adjoining residential districts by the creation or allowing of night lighting, noise and outside storage of vehicles and other business property.

— (2) The City Council is currently studying a master plan for redevelopment in the city and is concurrently studying changes to the comprehensive plan. The City Council is interested in promoting the economic vitality of the Highway Commercial District and the Manufacturing and Industrial District. Several sites are currently available for new businesses within the study

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Commented [20]: Can this be eliminated now since the period has lapsed?

Commented [21]: Yes.

area. The City Council is concerned that new conditional uses in these districts could be in conflict with changes to the comprehensive plan and could negatively affect existing and future commercial development in these districts.

- (3) As a result of the important land use and zoning issues cited above, the city, through its Planning Commission, will conduct studies to consider possible amendments to the comprehensive plan or official zoning controls to address these issues. The City Council finds that this interim section should be adopted to protect the planning process and the public health, safety, aesthetics, economic viability and general welfare of the city.
- (C) Zoning study. The Highway Commercial District (C 2) and the Manufacturing and Industrial District (M), as shown on the City of Osseo Zoning Map (§ <u>153.021</u>, Appendix D), is hereby declared to be an interim zoning study area with respect to any uses other than those currently listed as permitted uses in those respective zoning districts. The Planning Commission is directed to commence a planning study of the effects of certain uses in these districts and to propose such amendments to the comprehensive plan or zoning controls related to uses that the Planning Commission deems advisable.
- (D) Restrictions. For a period of one year from the effective date of this section, no approval of any conditional use permit for a use associated with automotive repair or outdoor storage or sales of recreational vehicles or trailers, trucks, or automobiles shall be granted for any property in the Highway Commercial District (C 2) or the Manufacturing and Industrial District (M), except as may be granted based upon hardship. The City Council specifically reserves the right to extend this section for such additional periods as are necessary to complete the planning study as provided by state law.
- —(E) Hardship. In a case of hardship, any person having a legal or equitable interest in land and aggrieved by the provisions of this interim section may apply to the City Council for a waiver of all or a portion of the applicable restrictions as provided herein. A waiver may be granted where the City Council finds substantial hardship caused by the restrictions and finds that a waiver will not unduly affect the integrity of the planning process or the purposes for which the interim section is enacted.

(Ord. 2006-7, passed 12-11-2006)

☐ § 153.041 PROVIDING FOR A MORATORIUM ON GRANTING CONDITIONAL USE PERMITS FOR USES IN THE CBD, CENTRAL BUSINESS DISTRICT ASSOCIATED WITH: DRIVE IN BUSINESSES; MINOR AUTO SERVICE STATIONS FOR RETAIL SALE AND SERVICE; MORTUARIES; AND DRY CLEANING, LAUNDRY, LINEN TOWELS, DIAPER, AND SIMILAR SUPPLY SERVICES.

—(A) Authority. Pursuant to M.S. § 462.355, Subd. 4, as may be amended from time to time, the City of Osseo is authorized to establish interim ordinances to regulate, restrict or prohibit any use or development in all or part of the city while the city is conducting studies, or has authorized a study to be conducted, or has scheduled a hearing to consider adoption or amendment of the comprehensive plan or official zoning controls. In furtherance of this statutory authority, the City of Osseo has adopted Chapter 153 of its Code of Ordinances, the zoning ordinance, including § 153.152 governing amendment of the zoning ordinance. The City of Osseo declares that this interim ordinance is adopted pursuant to M.S. § 462.355, Subd. 4, as

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Commented [22]: Same as above?

Commented [23]: Yes.

may be amended from time to time, and the applicable provisions of Osseo Code of Ordinances, Chapter 153.

(B) *Findings and purpose*.

- (1) The City Council is concerned about the effects of certain conditional uses in the Central Business District (CBD). The city forwarded its draft 2030 Comprehensive Plan Update to the Metropolitan Council by December 31, 2008, per M.S. § 473.864, Subd. 2, as may be amended from time to time. On April 8, 2009, the Metropolitan Council officially recommended that the city put its plan into effect. Now the city will need to officially adopt the 2030 Comprehensive Plan update and has nine—months to make necessary zoning amendments in order to ensure there are no conflicts between the existing zoning ordinance and the 2030 Comprehensive Plan Update. As such, the city will be revising its zoning ordinance.
- (2) The 2030 Comprehensive Plan Update guides for mixed use and pedestrian oriented development in the CBD area. The city's existing zoning ordinance allows for several conditionally permitted uses that are automobile oriented and thus appear inconsistent with the future land use of the area and also the future zoning of the area. Per § 153.037, these conditionally permitted uses are: drive in businesses; minor auto service stations for retail sale and service; mortuaries; and dry cleaning, laundry, linen towels, diaper, and similar supply services.
- -(C) Zoning study. Above and beyond the general zoning amendments that will be made over the next nine months, the CBD, Central Business District as shown on the City of Osseo Zoning Map (§ 153.021, Appendix D), is hereby declared to be an interim zoning study area with respect to automobile oriented businesses. The Planning Commission is directed to commence a planning study of the effects of certain uses in these districts and to propose such amendments to the zoning ordinance related to uses that the Planning Commission deems advisable.
- (D) Restrictions. For a period of one year from the effective date of this section, no approval of any conditional use permit for a use associated with drive in businesses; minor auto service stations for retail sale and service; mortuaries; and dry cleaning, laundry, linen towels, diaper, and similar supply services shall be granted for any property in the CBD, Central Business District, except as may be granted based upon hardship. The City Council specifically reserves the right to extend this section for such additional periods as are necessary to complete the planning study as provided by state law.
- —(E) Hardship. In a case of hardship, any person having a legal or equitable interest in land and aggrieved by the provisions of this interim section may apply to the City Council for a waiver of all or a portion of the applicable restrictions as provided herein. A waiver may be granted where the City Council finds substantial hardship caused by the restrictions and finds that a waiver will not unduly affect the integrity of the planning process or the purposes for which the interim section is enacted.

(Ord. 2009-2, passed 5-11-2009)

GENERAL REQUIREMENTS AND DEVELOPMENT STANDARDS

■§ 153.050 SPECIAL REGULATIONS; PERFORMANCE STANDARDS.

Every use permitted by this chapter shall be so established and maintained as to comply with the provisions of the following performance standards.

- (A) *Residual features*. No activity or operation shall be established or maintained which by reason of its nature or manner of operation will cause the emission of noise, odor, toxic or noxious fumes, gases, smoke, dust, and particulate matter in concentrations so as to be detrimental to or endanger the public health, welfare, comfort, and safety or cause injury to property or business.
- (B) *Glare*. Direct or reflected glare, such as from floodlights, spotlights, or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line. Any lighting used for exterior illumination (including off-street parking areas) shall be directed away from adjacent properties.
- (C) *Vibration*. No activity shall at any time cause earth vibrations perceptible beyond the limits of the site on which the use is located. Vibrations created during the process of construction are exempt from this standard.
- (D) *Explosives*. Any use requiring the storage, utilization, or manufacturing of products which should decompose by detonation shall be located not less than 400 feet from any residential district. This standard shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or commercial purposes.
- (E) Waste material. In commercial or industrial districts, without first having received a permit to do so from the city, liquid wastes containing any organic or toxic matter shall not be washed into the public sanitary sewer system or storm sewer system. If this permit is not granted, a method of disposal shall be devised which will not require continuous land acquisition for permanent operation and will not cause a detrimental effect to adjacent land. Should the waste be of solid form rather than fluid, it shall be stored within a completely enclosed structure or contained in a closed container designed for that purpose. Such a waste storage structure or container shall be so located and fenced as to be removed from public view. In all districts, all waste material, debris, refuse, garbage, and materials not currently in use for construction or otherwise regulated herein, shall be kept in an enclosed building or property and contained in a closed container designed for that purpose. The owner of vacant land shall be responsible for keeping that vacant land free of waste material and noxious weeds.
- (F) Radiation and electrical emissions. No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation at any point of any equipment including but not limited to radio and television reception other than that of the creator of the disturbance.
- (G) *Traffic control*. The traffic generated by any use shall be channeled and controlled in a manner that will avoid congestion on public streets, safety hazards, and excessive traffic through residential areas. Traffic into and out of all commercial and industrial uses and areas shall in all

cases be forward moving with no backing onto streets or pedestrian ways. No access drive to any lot shall be located within 30 feet of any two intersecting street right-of-way lines.

(H) Land slope. No building or structure shall be constructed on slopes of 18% or more in grade.

(1997 Code, § 25.08) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.051 LAND ALTERATION; EROSION CONTROL.

- (A) Land alteration restricted; exceptions. Land alteration is the process of changing the existing landscape by excavating, filling, or grading. Subject to the exceptions set forth below, no land shall be altered, excavated, filled, or graded and no vegetation shall be removed without first obtaining a permit from the city. The following exceptions shall be allowed:
- (1) A fill less than one foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than three feet in depth, not intended to support structures, which does not exceed 50-25 cubic yards and does not obstruct a drainage course; and other exceptions as are listed the State Building Code;
- (2) Construction of buildings for which a permit has been applied for and issued, provided the contemplated excavation or filling operation was sufficiently described at the time of building permit application;
- (3) Excavations or fills by state, county, or city authorities in connection with the construction or maintenance of roads, highways, parks, or utilities or on slope or utility easements, provided the activity is conducted within public rights-of-way or easements and has obtained any necessary Right of Way permits for the work;
- (4) Curb cuts, utility hook-ups, or street openings for which another permit is required from the city; or
 - (5) Grading plans-as approved of as part of plat approvals.
- (B) Requirements. Issuance of a grading permit shall be made subject to the following minimum requirements, and other requirements as the City Council may specify to protect the public interest:
- (1) Setback from adjacent property. All operations shall be conducted within the property lines. Grading that extends over the property lines shall require easements from adjacent property owners. Grading within the rights-of-way shall be by city permissionpermit;
- (2) *Excavation*. It shall be unlawful for any person to dig and leave open, unfenced, unbarricaded, or uncovered, any pit, quarry, hole, or excavation, including basements, wells, septic tanks, or cesspools;
- (3) *Restoration*. Upon completion of excavation or filling operations, the disturbed area shall be restored with topsoil or other approved cover material and shall be reseeded to establish approved vegetation;
 - (4) Finished grades. Finished grades shall not adversely affect adjacent properties;

Commented [24]: Staff suggest removing this exception, but we could also reduce this number to 25, 10, or 5 cubic yards

Commented [25]: Maple Grove, Woodbury, and Richfield all exempt less than 50 cubic yards.

I found that MN Rules 6120.3300 subd. 4 (B) imposes requirements on local permitting authorities in shoreland areas if more than 50 cubic yards of material will be moved. This may be how 50 cubic yards was established.

- (5) *Drainage*. Drainage facilities shall be provided to effectively divert or convey storm water runoff and follow the requirements of § 153.061;
- (6) Fire, rodentyermin, wind, and hauling control. Provisions for effectively controlling fire, rodentsyermin, and dispersal of material by wind or by hauling to and from the site, and for general maintenance of the site shall be made; and
- (7) *Permit period.* The excavation or filling permit shall run for six months unless a lesser or greater period is requested and approved by the City Council.
 - (C) Erosion control.
 - (1) Criteria. Erosion and sediment control plans shall comply with the following criteria:
- (a) Before a construction activity begins where soil will be disturbed, that requires a permit, an erosion control plan shall be submitted to the city for approval.
- (b) All development shall conform to the natural site topography and soil conditions to control runoff in order to create the best potential for preventing soil erosion.
- (c) All erosion and sediment control measures shall be installed prior to land disturbance activities, and shall not be removed without city approval. The developer or land owner is responsible for removal and disposal of erosion control devices.
- (d) Land disturbance activities shall be phased when possible to minimize the amount of soil exposed to erosion at any one time.
- (e) Erosion and sediment control measures shall be consistent with approved best management practices and shall be sufficient to retain sediment on-site.
- (f) All areas disturbed by excavation and backfilling operations, shall have the turf reestablished after the completion of the work in that area. All seeded areas shall be fertilized, mulched, and secured and disc anchored tabilized as necessary for seed retention.
- (g) At the close of the construction season, the entire site must be stabilized, useing a heavy mulch layer, or another method that does not require germination to control erosion.
- (2) Clean-up. The developer or land owner shall maintain a neat and orderly site and daily clean, on and off site, dirt and debris, including all blowables, from the street and the surrounding area which has resulted from construction work by the developer or land owner, its agents or assigns.
- (3) *Maintenance*. The developer or land owner shall be responsible for proper installation, operation, and maintenance of all stormwater pollution controls and soil stabilization measures in conformance with approved best management practices. The developer or land owner is responsible for the operation and maintenance of temporary erosion prevention and sediment control best management practices for the duration of the construction work at the site.
- (4) *Notification*. If a construction site or buildable lot is sold <u>before work is completed</u>, the owner is required to notify the buyer of the erosion control, clean-up, and landscaping requirements.

Commented [**26**]: Do you want this to be subject to Council approval?

Commented [NA27R26]: It seems like a reasonable requirement. I wouldn't want the permit to be open indefinitely. I guess we could also just require a new permit every 6 months, with no option for extension.

- (5) *Landscaping*. The developer shall provide for the installation of landscaping in accordance with the landscape plan approved by the city. The developer shall sod the drainage swales. All trees, grass, and sod shall be warranted to be alive, or of good quality and disease-free at installation. All trees shall be warranted for 12 months after planting.
- (6) Noncompliance. If the developer or land owner does not comply with the erosion control plan the city may taken action as it deems appropriate to control erosion at the developer's or land owner's expense. The city will endeavor to notify the developer or land owner in advance of any action, but failure of the city to do so will not affect the developer's or land owner's and city's rights and obligations hereunder.
- (7) Additional rules apply. During construction and until permanent cover is established, any land alteration that exceeds an area of 43,560 square feet (one acre) shall require compliance with the rules and procedures of the Watershed Management Commission having jurisdiction.

(1997 Code, § 25.08) (Ord. passed 11-14-1994; Am. Ord. 2012-8, passed 5-29-2012) Penalty, see § 10.99

- (A) *Purpose*. It is the intent and desire of the city to protect, preserve, and enhance the natural environment and beauty of the city by encouraging the resourceful and prudent development of wooded areas, and with respect to specific site development to retain, as far as practical, substantial tree stands which can be incorporated into the development. No clear cutting of woodland areas shall be permitted.
 - (B) Tree inventory and landscape plan required.
- (1) The developer of any property with wooded areas shall complete a tree inventory survey showing all significant trees with their respective locations on the site along with the species names and condition of trees.
- (2) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.
- **SIGNIFICANT TREE.** A deciduous tree that is 12 inches or larger in diameter, or a coniferous tree seven inches or larger in diameter.
- (C) Replacement guidelines. Tree removal for construction of public and or private improvements shall be on a proportionate basis. The proportion of tree replacement shall be 50% replacement per caliper inches lost of all significant trees removed from the development or lot in question.
- (1) Once the amount of tree replacement has been determined, the owner will be required to submit a planting plan detailing the location, type, and size of trees to be replaced. The minimum size of trees which shall be given credit for tree replacement are as follows:
- (a) Deciduous trees: two and one-half inches in diameter as measured six inches above ground; and
 - (b) Coniferous trees: four feet in height.
 - (2) Trees designated for replacement shall be of similar variety to trees which are removed.

(D) *Performance bond*. The city shall require the owner to provide a performance bond in the form of cash, corporation surety bond, approved letter of credit, or other surety satisfactory to the city to guarantee that the required trees to be replaced are done according to this chapter. The performance bond shall be furnished by the developer prior to obtaining a building permit that is equal to the amount of the required landscaping to be installed. The performance bond shall be held by the city and must cover one calendar year subsequent to the installation of the landscaping and must be conditioned upon complete and satisfactory implementation of the approved landscape plan.

(1997 Code, § 25.08) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.053 BUILDING MATERIAL REGULATIONS.

- (A) *Purpose.* The purpose of this section is to assure that buildings in commercial and industrial areas of the city will be of high quality in both visual and functional terms. To that end, this section identifies permitted building materials which are durable and long-lasting and which generally present a more attractive visual appearance than less durable materials.
- (B) Application. The provisions of this section shall apply to all new structures including additions or remodeling and to all new developments within all zoned districts within the city.
- (C) Exterior elevation. Exterior elevation drawings of the proposed structure must be submitted which will accurately indicate the height, size, design, and appearance of all elevations of the proposed structure. A description of the construction materials to be used must also be submitted.
- (D) Architectural design. The exterior architectural appearance of the proposed structure shall not be so at variance with the exterior architectural appearance of existing structures within the immediate area, or with the intended character of the applicable zoning districts, taking into consideration building materials, size, shape, and heights, so as to cause an adverse impact upon property values in the immediate area, or the city as a whole, or adversely affect the public health, safety, and general welfare of the portion of the city in which the property is located or the city as a whole. All additions or remodeling shall be compatible in scale, material, and massing.
- (E) *Permitted materials*. Structural systems of all buildings shall be as required by the State Building Code.
- (1) Exterior building materials shall not be so at variance with the exterior materials of existing structures within the immediate area or the city as a whole as to adversely impact the property values in the affected area or the city as a whole, or adversely affect the public health, safety, and general welfare.
- (2) Exterior building finishes shall consist of materials comparable in grade and quality to the following:
 - (a) Brick;
 - (b) Natural stone;
- (c) Precast concrete units and concrete block, provided that surfaces are molded, serrated, or treated with a textured material in order to give the wall surface a three-dimensional character;

- (d) Wood, provided surfaces are finished for exterior use and only woods of proven exterior durability are used, such as cedar, redwood, and cypress;
- (e) Fiberglass and aluminum (non-structural, non-load bearing), provided these panels are factory-fabricated and finished with a permanent durable non-fade surface and their fasteners are of a corrosion-resistant design; and provided further that no more than one-third of the wall surface abutting a public street, or adjacent to a residential or public area, consists of this type of panels. The requirement of no more than one-third of the wall surface being covered by the aforementioned materials may be permitted if it can be shown that the building is screened by other means such as berming, plantings, or other proposals that may be submitted by the builder; or
 - (f) Glass curtain wall panels.
 - (F) Prohibited materials.
- (1) Face materials which rapidly deteriorate or become unsightly, such as galvanized metal, unfinished structural clay tile, and metal panels not factory finished with a permanent surface;
 - (2) Buildings comprised exclusively of metal;
 - (3) (a) Pole buildings, defined as follows.
- (b) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.
- **POLE BUILDING.** Any building using wood or metal poles as a principal structural support where those supports are not affixed to a floor slab but inserted directly into the ground to achieve alignment and bearing capability.
- (43) Sheet metal, plastic, or fiberglass siding, unless that siding is a component of a factory fabricated and finished panel.

(1997 Code, § 25.08) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.054 OUTSIDE STORAGE AND SCREENING.

All material and equipment shall be stored within a building or fully screened so as to not be visible from adjoining properties. Any such screening method, whether a physical structure or landscaping, shall reduce visibility in a manner that restricts vision of the object being screened. Physical structures, such as fences, shall be constructed in a style that is architecturally compatible with the primary structure. All screening methods shall be approved by the Zoning Official. Screening is not required in the following instances:

- (A) Construction and landscaping materials and equipment temporarily being used on the premises (limited to a duration of 14 days or the length of an active Building or Excavation permit);
- (B) Agricultural equipment and materials if these are being used or intended for use on the

Commented [28]: We don't explicitly allow any agricultural uses, so I'm wondering if it makes sense to allow outdoor storage of agricultural equipment or materials.

Commented [29]: Agreed.

- (EB) Off-street parking facilities, except as otherwise herein regulated, and except in residential districts where any off-street parking area containing over six spaces may be required to be screened; and
- (DC) In commercial districts (CBD and C 2), merchandise of the type customarily displayed outdoors for retail sale may be so displayed beyond the principal structure without screening, provided that in no event shall the unscreened outside display area:
 - (1) Exceed 5% of the ground floor area of the principal structure;
 - (2) Impede normal pedestrian or vehicular traffic; and
- (3) CBD businesses may utilize public right-of-way for outside display areas as long as it adheres to all requirements of this section, and:
 - (a) Display areas must be approved by the Zoning Official; and
 - (b) Merchandise display is only allowed during business hours.

(1997 Code, § 25.08) (Ord. passed 11-14-1994; Am. Ord. 2008-3, passed 2-11-2008) Penalty, see § 10.99

§ 153.055 CONSTRUCTION STANDARDS.

- (A) All structures permitted in all zoning districts (PI, R 1, R 2, EMX, CBD, C 2N, C 2S, and M) shall be constructed in accordance with the State Building Code and shall be constructed with a floating four-inch, or greater, concrete slab floor throughout the structure or with concrete frost footings and foundations, as specified by the State Building Code, along the entire perimeter of the structure. All structures in the zoning districts set forth shall possess wall and ceiling joist construction consisting of framing materials of at least one and one-half inch by three and one-half inch dimensions. Pole-type construction, with or without frost footings and foundations and with or without metal exterior walls or metal roofs, shall not be permitted.
- (B) Structures to be utilized for one-family inhabitation in allowable districts, as set forth by this chapter, shall have a minimum overall building width of 24 feet and shall have a minimum roof slope ratio of 4:12 (four-inch rise to 12-inch run).
- (C) All other structures to be built in any zoning district shall comply with all requirements as described in this chapter and the State Building Code.

(1997 Code, § 25.08) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.056 ACCESSORY BUILDINGS AND STRUCTURES.

(A) General Provisions.

(1) Small accessory structures such as arbors, benches, doghouses, playsets, garden decorations, pergolas, and 'Little Free Libraries' are exempt from the provisions of this subsection, but cannot be located in public rights-of-way without an approved permit for such occupancy.

Commented [**30**]: This seems to duplicate Chapter 150: Building Regulations

Commented [31]: Do A and B provide additional requirements, such as the one-half inch by three and one-half inch framing materials?

Commented [**32**]: Is it necessary to explicitly name all districts, or can this be removed?

Commented [33]: It can be removed. Leaving them all in only serves the purpose of confirming for any reader that all zones are included.

Commented [NA34]: According to Metro West, this section duplicates content covered in the State Building Code. It could be removed.

Commented [35]: 62 3rd Ave NW is ~23 ft wide, as is 108 Broadway Street East

Commented [NA36R35]: A smaller minimum width—or no minimum width at all?—could be considered. The building code otherwise regulates the minimum size of rooms within a structure—but not the width of the overall structure itself.

Commented [**37**]: Assuming they were built before the requirement was enacted then they would be considered a "non-conforming" use.

- (2) Tents, play houses, or similar structures shall not be used as temporary or permanent dwelling units, but may be used for recreational purposes.
- (3) Any accessory structure used for the parking or storage of motor vehicles, such as a garage or carport, shall have a floor constructed of poured concrete in accordance with standards approved by the building official.
- (4) Accessory structures shall only be constructed concurrent with or after the construction of the principal building on the same site.
- (5) Uses and structures that are accessory to a conditional principal use shall be permitted in accordance with this subsection, without requiring a conditional use permit amendment, unless specifically required as a condition of the conditional use permit approval.
- (6) Table XX lists the accessory uses allowed within all zoning districts. If an application is submitted for a use of structure that is not listed in Table XX, the zoning administrator is authorized to classify the new or unlisted use or structure, with consultation from appropriate city departments, into an existing use or structure type that most closely fits the new or unlisted use. If no similar use determination can be made, the zoning administrator shall refer the use to the planning commission, who may initiate an amendment to this chapter to clarify where and how the use shall be permitted.
- (B) Residential districts Regulations. Accessory buildings and structures in residential districts shall be subject to the following regulations.
- (1) Accessory buildings and structures attached to or part of the principal building shall maintain the same setbacks as required for the principal building.
- (2) Except for private garages, no accessory building shall exceed ten feet in height or 200 square feet in floor area, nor shall accessory structures exceed ten feet in height or 150 square feet in floor area in R-1 and R-2 zoning districts, as set forth in the table below.

(1997 Code, § 25.08)

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Accessory Structures					
Zoning District	Maximum Height, in Feet	Maximum Floor Area, in Square Fee			
R-1 & R-2	10	150			
Other <u>Districts</u> s	15	200			

(1997 Code, Ch. 25, Table 2)

- (3) No detached accessory building shall be erected or moved within five feet of the principal structure.
- (4) A maximum of one accessory structure is permitted per lot, including but not limited to storage sheds and yard barns, but not including garages.

(BC5) Motor Fuel Stations. Commercial and industrial districts. Accessory buildings and structures in CBD, C 2N, C2 S, and M zoning districts shall be subject to the following regulation:—For motor fuel stations, the setback of any overhead canopy or weather protection, freestanding or projecting from a building, shall not be less than 15 feet from the street right-of-way line, nor less than 20 feet (35 feet in M district)—from an adjacent property line. The distance of the setback shall be measured from the roof line of the structure to the property line.

(CD) Private garages. The maximum capacity of a private garage shall not exceed a total of three passenger vehicles in residential zoning districts the (R-1 District or two passenger vehicles per dwelling unit in the and R-2 District). The maximum aggregate floor space of all private garages on a single lot shall be 1,000 square feet. The maximum building height for private garages shall be 15 feet.

(1997 Code, § 25.08)

(Ord. passed 11-14-1994; Am. Ord. 2005-5, passed 8-8-2005) Penalty, see § 10.99

§ 153.057 LANDSCAPING.

- (A) Purpose and objectives.
- (1) The primary purpose of this section is to establish minimum requirements and standards relative to landscaping, buffering, and screening to be implemented concurrently with site plans approved by the city. The standards and criteria shall be used by city staff and the Planning Commission in the review and evaluation of those plans and development proposals.
- (2) The objectives of these requirements are to establish and maintain forestation of the city; to provide appropriate ground cover vegetation for controlled soil erosion; to enhance, when necessary, the natural environment, particularly in instances where the natural environment is disturbed during the course of development; and to establish standards for utilization of natural materials to achieve desired screening and buffering.
- (B) *Minimum standards*. This section sets forth minimum requirements of landscaping and limitations to assure that the result is consistent with reasonable maintenance requirements on a long-term basis and to assure that the results provide an aesthetic urban environment.
 - (1) CBD, central business district and EMX, Edge Mixed Use District.
- (a) One tree for every 1,000 square feet of total building area. If landscaping cannot be accommodated on site the City Council will require the plantings to be placed in the a City Park or city right-of-way. Placement of this landscaping shall be approved by the City Council. The City Council may also accept payment of the cost of purchasing, installing, and maintaining required landscaping for three years in lieu of installing landscaping in a City Park or right-of-way.
- (b) Any offOff-street parking areas that serve downtown business district establishmentsin the CBD and face or abut a residentially zoned area-shall be screeneddemarcated or defined -so as to separate cars from pedestrian walkways and minimize the visual-impact on the urban fabric of large expanses of asphalt and automobiles. This demarcation may be accomplished by the use of low walls, landscaping, or other combinations consistent with the city's Architectural Design

Commented [NA38]: It would probably be a good idea to exempt multi-family buildings from this requirement. I'm not sure the best way to do that.

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<u>Guidelines. Parking areas that face or abut a residentially zoned area shall be screened.</u> This screening can be accomplished by an earth berm with shrub plantings, by hedge with various deciduous and coniferous trees, or by other combinations approved by the city.

- (c) Loading docks and loading berths that face a residentially zoned area shall be screened so as not to be seen from the residential area. Various deciduous and coniferous trees or fencing approved by the city may be used as the screening device.
- (d) All trash and trash handling equipment shall be stored within the principal structure, within an attached structure accessible from within the principal structure, or totally screened from eye-level view from public streets and adjacent residential properties. If accessory structures are proposed, they shall be constructed of the same building material as the principal structure.
- (e) Light from automobile headlights and other sources shall be screened whenever it may be directed onto adjacent residential windows.
 - (2) C-2N & C-2S, highway commercial districts.
- (a) One tree for every 1,000 square feet of total building floor area or one tree for every 50 feet of site perimeter, whichever is greater.
- (b) The light from automobile headlights and other sources shall be screened whenever it may be directed onto adjacent residential windows.
- (c) Loading docks and loading berths that face a residentially zoned area shall be screened so as not to be seen from the residential area. Various deciduous and coniferous trees or fencing approved by the Planning Commission may be used as the screening device.
- (d) Parking lots that serve a highway business use or health care use that face or abut a residentially zoned area shall be screened so as to minimize the visual impact of the large expanses of asphalt and automobiles. This screening can be accomplished by an earth berm with shrub plantings or by a hedge with various deciduous and coniferous trees or by other combinations approved by the city.
- (e) Trees planted to satisfy the requirements of divisions (B)(2)(b), (B)(2)(c), or (B)(2)(d) above, will not be counted towards the requirement of one tree per 1,000 square feet of building or one tree per 50 feet of site perimeter unless otherwise approved by the city.
- (f) All trash and trash handling equipment shall be stored within the principal structure, within an attached structure accessible from within the principal structure, or totally screened from eye-level view from public streets and adjacent residential properties. If accessory structures are proposed, they shall be constructed of the same building material as the principal structure.
 - (3) M, manufacturing and industrial district.
 - (a) One tree per 1,000 square feet of gross building floor area.
- (b) Where industrial zoned land is adjacent to or across the street from property zoned for residential development, that industry shall provide screening as follows.

- 1. Loading docks and loading berths that face a residentially zoned area shall be screened so as not to be seen from the residential area. Various deciduous and coniferous trees or fencing approved by the city may be used as the screening device.
- 2. Parking lots that serve an industrial use that face or abut a residentially zoned area shall be screened so as to minimize the visual impact of the large expanses of asphalt and automobiles. This screening can be accomplished by an earth berm with shrub plantings or by a hedge with various deciduous and coniferous trees or by other combinations approved by the city.
- 3. Trees planted to satisfy the requirements of divisions (B)(3)(b)1. and (B)(3)(b)2. above will not be counted towards the requirement of one tree per 1,000 square feet of building unless otherwise specified by the city.
- 4. All trash and trash handling equipment shall be stored within the principal structure, within an attached structure accessible from within the principal structure, or totally screened from eye-level view from public streets and adjacent residential properties. If accessory structures are proposed, they shall be constructed of the same building material as the principal structures.
- 5. Light from automobile headlights and other sources shall be screened whenever it may be directed onto adjacent residential windows.
- (4) R-1, one- and two-family residential district, and R-2, multiple-family residential district.
- (a) A planting trip and/or earth berm, not exceeding a slope of 3:1, shall be placed in all newly platted residential developments that abut an arterial road as identified in the city's Comprehensive Plan.
- (ba) I The minimum number of trees meeting the Minimum Size requirements in Subsection (b) maintained at any given site shall be as follows:
 - i. Single and Two Family Uses. A minimum of two trees per parcel.
 - ii. Townhouse and Multiple Family Uses of 4 or fewer units. A minimum of one tree per dwelling unit.
 - <u>Hiii.</u> Multiple Family Uses of 5 or more units. Whichever is greater: one tree per 1,000 square feet of gross building floor area or one tree per fifty lineal feet of site perimeter. n the R-1 and R-2 districts, each newly platted lot shall have two trees.
- (eb) Where any multiple-family use with more than four parking spaces adjoins another residential use, the off-street parking for that use shall be screened from adjoining properties by a hedge or other various plantings as approved by the city.
- (dc) Lights from automobiles and parking lot lights shall be screened whenever the light may be directed onto residential windows to the extent that it will cause an unreasonable disturbance.
 - (5) Landscape requirements applicable to all districts.
- (a) Unless otherwise directed by the city, all plantings shall be placed on the private property on which the development is taking place. If landscaping cannot be accommodated on

Commented [39]: Since we don't expect any newlyplatted developments—and our only arterial road is TH 169—perhaps we don't need this requirement.

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site the City Council will require the plantings to be placed in a City Park or city right-of-way. Placement of this landscaping shall be approved by the City Council. The City Council may also accept payment of the cost of purchasing, installing, and maintaining required landscaping for three years in lieu of installing landscaping in a City Park or right-of-way.

- (b) Landscape screening exceeding 30 inches in height as measured from the top side of the curb is not permitted within 15 feet of any street or alley.
- (c) All areas not otherwise improved in accordance with approved site plans or subdivisions shall be sodded and maintained.
- (d) The owner shall provide the city with cash, corporate surety bond, approved letter of credit, or other surety satisfactory to the city to guarantee the proper installation and growth of the approved landscape plan. The performance bond shall be furnished by the developer prior to obtaining a building permit that is equal to the amount of the required landscaping to be installed. The performance bond shall be held by the city and must cover one full calendar year subsequent to the installation of the landscaping and must be conditioned upon complete and satisfactory implementation of the approved landscape plan.
 - (6) Minimum size of plantings.
- (a) Unless otherwise specified herein with respect to specific zoning districts, required trees shall be of the following minimum planting size:
- 1. Deciduous trees: two and one-half inches in diameter as measured six inches above ground;
 - 2. Coniferous trees: four feet in height; and
 - 3. Major shrub or berm plantings: five gallons.
- (b) Evergreen shrubs used for screening purposes, including those used in conjunction with berming, shall be a minimum of 24 inches in height.
 - (7) Species.
- (a) All trees used in site developments shall be indigenous to the appropriate hardiness zone and physical characteristics of the site.
- (b) All deciduous trees proposed to satisfy the minimum requirements of this policy shall be long-lived hardwood species.
- (c) The complement of trees fulfilling the requirements of this policy shall not be less than 25% deciduous and not less than 33% coniferous.
- (8) *Prohibited species*. The following species are prohibited and shall not be used toward meeting the requirements of this chapter.

Genus	Species	Common Name		
Acer	Megundo	Boxelder		

Commented [41]: Would it be better/possible to incorporate references to the "approved planting" Tree List used by Hennepin County Forestry, or is it too difficult to reference a dynamic document (that may be updated, or abolished) in ordinance?

Commented [42]: Crystal Code Section 520.11 provides for a "City Approved Tree List" which could be created and maintained by the Osseo City Council.

Commented [43]: I think you could refer to an outside document, but it might be more practical to keep a city-approved list.

Gingko	Biloba	Gingko (female only)
Populus	Deltoides	Eastern cottonwood
Populus	Nigra Italica	Lombardy poplar

(1997 Code, § 25.08) (Ord. passed 11-14-1994) Penalty, see § 10.99

₽§ 153.058 FENCING.

- (A) Building permit required.
- (1) No fence, except temporary fencing, shall be constructed without a building permit. The application shall be accompanied by a plot plan clearly describing the type, location, and method of anchoring the fence. Permit applications shall be reviewed by the Zoning Officer or their designee.
- (2) Fences may be erected, placed or maintained along or adjacent to a lot line. The fenceproperty owner shall be responsible for properly locating all property lines before construction of any fence. Boundary line fences shall be located entirely upon the private property of the party constructing the fence unless the owner of the property of the adjoining property agrees, in writing, that the fence may be erected on the division line of the respective properties. The persons, firms, or corporations constructing or causing the construction of the fenceproperty owner shall be responsible for verifying the location of their property line and for maintaining that part of their property between fence and property line. City staff will require any applicant for a fence permit to establish the boundary lines of his or her property by a survey thereof to be made by any registered land surveyor or by showing the stake markers of the surveyed lot.
 - (3) Permanent fencing is required to meet the standards of the State Building Code.
 - (B) Fencing standards for all districts. Fencing in all districts shall conform to the following.
 - (1) Fence Design. Fences shall be constructed, designed and maintained as follows:
 - (a) Permitted materials. Fences shall be constructed of wood, metal, bricks, masonry or other permanent materials designed for permanent fencing.

 Fences constructed of wood shall be resistant to decay. Fences shall be maintained so that the exposed outer surface shall be uniformly painted or stained in a neat and aesthetically pleasing condition.
 - (b) Hazardous and prohibited materials. Fences shall not be constructed of electrically charged wire, razor wire, chain link with slats, chicken wire, rope, cable, railroad ties, landscape timbers, utility poles or any other similar materials or materials not specifically manufactured for permanent fencing. The cut or selvage end of wire or metal fencing materials may not be exposed at the top of a fence if the height of the fence is less than six and one-half (6½) feet. Barbed wire may be permitted at the top of a fence

Commented [44]: Emergency temporary fencing is allowed in 153.058 (B) (4). Keeping this language here eliminates any confusion.

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Commented [46]:,

if the height of the barbed wire is not less than six and one-half $(6\frac{1}{2})$ feet and the fence is not less than three feet from a public sidewalk or way. Posts and supporting members. All fence posts and related supporting members of the fence shall be erected so that the finished side or sides of the fence shall be facing the adjacent property or public right-of-way.

(1) Fences in all districts shall be maintained so that the exposed outer surface shall be uniformly painted or stained in a neat and aesthetically pleasing condition.

(2) No fence shall be permitted on a public right-of-way or boulevard area without the fence owner first obtaining the appropriate permit(s) for encroachment.

without special permission from the City Council.

- (3) No fence shall be erected on a corner lot that will obstruct or impede the clear view of an intersection by approaching traffic and no fence shall obstruct free access to a fire hydrant.
- (4) All snow-stop fencing may be used from November 1 to April 1. No permit shall be required for temporary fencing.
- (5) Any fence which is dangerous to the public safety or general welfare and health is a public nuisance and the city may commence proceedings for the abatement thereof.

Electric fences may not be used as boundary fences, and material such as hog wire fencing, barbed wire fencing, or snow fencing will not be allowed as permanent fencing.

- (6) The side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property. Abutting property owners will be notified by the constructor of the fence five calendar days before the building permit is issued.
- (C) Fencing standards in residential districts (R-1 and R-2). Fence height shall be limited by its location as specified below. Except as otherwise provided in section (1) below, the maximum fence height may be increased by two (2) feet if the entire fence is constructed of open, decorative, ornamental fencing materials that is not more than 50% opaque (such as vinyl coated chain link). In no case shall a fence exceed eight (8) feet in height, regardless of location.
- (1) A fence may be located along the rear lot line to a maximum height of up to six feet and to a maximum height of six feet along the side lot lines up to the point where it is parallel with the front edge of the house. From this point forward to the right-of-way, the height of the fence shall not exceed three feet. Any fence that crosses the width of the front yard shall not exceed three feet in height. The maximum height of a fence in the front yard may be increased to four feet if the material type of the fence is not more than 50% opaque (such as, vinyl coated chain link). The front of a house situated on a corner lot shall be the architectural front of the house facing the street from which the house is addressed.
- (2) A variance is needed for fences exceeding the above mentioned heights. The front of a house situated on a corner lot shall be the architectural front of the house facing the street from which the house is addressed. No fence may be placed in violation of the restrictions of this section. Refer to Appendix A.

(1997 Code, § 25.08; Am. Ord. passed 10-27-2003)

Residential Fence Requirements				
Fence Location	Maximum Height, in Feet	Maximum Opaqueness		
Front yard at right-of-way.and-AND/OR	3	100%		
Side lot linesyards from front edge of house forward to right-of-way	4	50%		
Rear lot lineyard AND/ORand Side lot lines yards from	6	100%		
rear lot line to the front edge of house	8	<u>50%</u>		
Side lot lines from rear lot line to the front edge of house	6	100%		
Side lot lines from front edge of house forward to right-of-	3	100%		
way	4	50%		

(1997 Code, Ch. 25, Table 3)

- (2) Fences around dog kennels not exceeding 50 square feet in size, fences around garbage cans, and garden fences will not require fence permits but shall adhere to the other regulations of this section.
- (D) Fencing in commercial, manufacturing, and industrial districts (CBD, C-2N & C-2S, and M). Fences may be located along a lot line to a height of eight feet. Fences over eight feet in height shall require a variance.
 - (E) Required fences; swimming pools.
- (1) All swimming pools shall be completely enclosed by a type of fence resistant to being climbed unless specifically exempted in this section.
- (a) All fence openings or points of entry into the pool area enclosure shall be equipped with gates.
 - (b) The fence and gates shall be at least four feet in height.
- (c) One gate shall be equipped with self-closing and self-attaching devices placed at the top of the gate or otherwise inaccessible to small children. Any gate in the fence will be presumed to be solely for maintenance purposes and shall remain locked at all times when not used for maintenance purposes.
- (d) The openings between the bottom of the fence and the ground or surface shall not be more than four inches.
- (2) Above-ground pools of four feet or more in wall height shall be exempt from complete enclosure by a type of fence resistant to being climbed. However, above-ground pools shall be

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equipped with a fence and gate system at all points of entry to the pool. The fence and gate system shall effectively control access to the pool and shall be constructed pursuant to the specifications listed in this section.

- (F) Existing fences. No existing fence in violation of this section will be allowed to be replaced or rebuilt. Should an existing fence be replaced or rebuilt, it must come under the regulation of this section.
- (G) *Traffic visibility at corner lots*. On corner lots, in all districts, no fence in excess of 30 inches above the street centerline grade shall be permitted within a triangular area defined as follows: beginning at the intersection of the extension of the existing curb lines of two intersecting streets, thence 30 feet back along one curb line, thence diagonally to a point 30 feet from the point of beginning back along the other curb line, thence to the point of beginning.

(Am. Ord. passed 10-27-2003)

(H) *Violations; remedies.* Violation of this section may be enforced by injunction and the city shall be entitled to the remedy of abatement in order that a fence erected in violation of this section may be removed.

(1997 Code, § 25.08)

(Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.059 ANTENNAE AND TOWERS.

- (A) Compliance required. Except as otherwise provided in this section, no antenna or tower may be erected, constructed, placed, re-erected, or replaced in a residential zoning district of the city except in conformance with this section.
- (B) *Permit required*. Except as provided in division (B)(2) below, no person may erect, construct, place, re-erect, reconstruct, or replace an antenna or tower in the city without first making application for and obtaining a permit therefor from the Building Official.
- (1) *Information*. The applicant for the permit shall provide at the time of application sufficient information to indicate that the erection, construction, placement, re-erection, reconstruction, or replacement will not create a safety hazard or damage to the property of other persons.
 - (2) Exceptions. Permits are not required for:
- (a) An antenna or combination of antenna(e) and tower rigidly attached to a building, provided that the combination of antenna and tower does not exceed a total height of ten feet above the highest point of attachment;
 - (b) Antennae and tower used by the city for city purposes;
- (c) Adjustment, repair, or replacement of the elements of an antenna, provided the adjustment, repair, or replacement does not reduce the safety factor; or
- (d) Temporary antennae or towers erected for test purposes, emergency communication, or for broadcast remote pick-up operations; temporary antennae and towers shall be removed within 72 hours following installation.

Commented [47]: This is an unusual violation/remedy section for the Zoning Code. Is it legally (& procedurally) appropriate?

Commented [48]: Minn. Stat. 462.362 provides that a city may enforce an ordinance by injunction.

- (C) Performance standards; co-location requirements. All towers erected, constructed, or located within the city shall comply with the following requirements. A proposal for a new tower shall not be approved unless the City Council finds that the wireless telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, building, or structure within a one-mile radius of the proposed tower due to one or more of the following reasons, except that the radius shall be one-half mile for towers between 80 and 120 feet and one-quarter mile for towers under 80 feet:
- (1) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost;
- (2) The planned equipment would cause interference materially impacting the usability of other existing equipment at the tower or building as documented by a licensed professional engineer and the interference cannot be prevented at a reasonable cost;
- (3) Existing or approved towers or buildings within the radius cannot accommodate the planned equipment at a height necessary to function reasonably, as documented by a licensed professional engineer; or
- (4) Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon an existing or approved tower or building.

(D) Location.

- (1) *Side yards.* A tower or antenna or combination thereof may not be located in any front yard or side yard except that the towers or antennae rigidly attached to the side of the building may project into a required interior side yard provided they are at least four feet from an interior side property line.
- (2) Satellite antennae. Ground-based satellite antennae are permitted only in the rear yard and, for purposes of this zoning chapter, are accessory structures. The structures are subject to the requirements for accessory structures located in this chapter.
- (3) Extension into streets. No part of any antenna or tower nor any lines, cable, equipment, or wires, or braces in connection with either shall at any time extend across or over any public right-of-way, streets, highways, sidewalk, or alleys, or over any property line.
- (4) *Height*. The total height of any tower, antennae, or combination thereof shall not exceed 35 feet from the lowest grade level at the base to the highest point of the tower, antennae, or combination thereof. The total height of roof-mounted towers, antennae, or combination thereof may not exceed 35 feet above the average elevation of the lot along the front building line of the building it is mounted on.

(E) Construction.

- (1) Wind. Towers with antennae shall be designed to withstand applicable wind load requirements as prescribed in the State Building Code.
- (2) *Treatment.* Metal towers shall be constructed of, or treated with, corrosive resistant material. Wood poles shall be treated wood in conformance with the State Building Code.

- (3) *Grounding*. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with the National Electrical Code.
- (4) *Climbing*. A tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.
- (5) Appurtenant structures. No antenna or tower shall have affixed or attached to it, in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency or the Federal Communication Commission, nor shall any tower have constructed thereon or attached thereto any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.
 - (F) Non-conforming installations.
- (1) General rule. Antennae and towers in existence on November 23, 1994, which do not conform to or comply with this section, may continue to exist for purposes now used but may not be replaced or structurally altered, except as provided in division (B) of this section, without complying with this division (F).
- (2) Restoration. A non-conforming antenna or tower which is damaged by fire or other cause to an extent of more than 50% of its market value shall not be restored except in conformity with the regulations of this chapter. However, if a building permit has been applied for within 180 days of when the antenna or tower is damaged, then the antenna or tower may be restored to its pre-damage non-conforming status subject to the applicability of the Minnesota State Building Code and other requirements of the Osseo Code of Ordinances.
- (G) *Variances*. The City Council may grant variances to the literal provisions of this section in the same manner granted under this zoning chapter.
- (H) Amateur radio towers/antennas. Amateur radio support structures (towers) shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

(1997 Code, § 25.08) (Ord. passed 11-14-1994; Am. Ord. passed 12-11-2000; Am. Ord. 2006-3, passed 5-8-2006) Penalty, see § 10.99

§ 153.060 HOME OCCUPATIONS.

All home occupations permitted by this chapter shall be so established and maintained as to comply with the provisions of the following standards:

- (A) Conduct of the home occupation does not result in any alterations to the exterior of the residence or involve interior or exterior construction features not customarily found in dwellings;
- (B) Signage consists of no more than one single- or double-faced unlighted sign with a maximum area of two square feet not located on a public right-of-way;

- (C) Conduct of the home occupation does not generate more noise, vibration, glare, fumes, odors, or electrical interference than normally associated with residential occupancy in the neighborhood;
- (D) The home occupation is not of a scale requiring the use of a commercial vehicle for the delivery of materials to or from the premises;
- (E) The use shall not generate sewage of a nature or rate greater than that normally associated with residential occupancy, nor shall it generate hazardous waste or solid waste at a rate greater than that normally associated with residential occupancy;
- (F) Except for articles produced on the premises, no stock-in-trade shall be displayed or sold on the premises;
- (G) The home occupation shall not increase vehicular traffic flow and parking by more than one additional vehicletwo customer cars at a time, and any need for parking generated by the conduct of a home occupation shall be met off the street and other than in a required front yard, or in a driveway in a manner so that access to the garage is not eliminated;
- (H) No more than <u>one-two person-people</u> other than those living in the residence may be employed in the home occupation;
- (I) No outdoor display of goods or outside storage of equipment or materials is permitted;
- (J) No accessory building may be used for operations, display of goods, or the storage of equipment or materials used in the home occupation; A home occupation may be located within the dwelling, an accessory building, or both, provided that the total area of the home occupation is not greater than 50% of the finished floor area of the dwelling;
- (K) No home occupation will be allowed that jeopardizes the health and safety of residents of the city. Home businesses shall not create nuisances as provided in the Osseo City Code Chapter 93. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. The use shall not employ the storage of explosive, flammable, or hazardous materials beyond those normally associated with residential use; and
- (L) There shall be no renting of space in a residence for non-residential purposes.

(M) Home occupation shall not operate between 10:00 pm and 6:00 am;

(1997 Code, § 25.09) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.061 STORMWATER MANAGEMENT.

- (A) *Applicability*. Projects disturbing more than one acre shall follow the most current general permit to Discharge Stormwater Associated with Construction Activity No. MN R100001 (Permit) issued by the Minnesota Pollution Control Agency (MPCA), as amended.
- (B) *Investigation*. After a building permit has been applied for and prior to the issuance of the permit, the city shall thoroughly investigate the existing drainage features of the property to be used.

- (C) Obstruction of natural drainage prohibited. No building permit shall be issued for the construction of any building on which construction or necessary grading thereto shall obstruct any natural drainage waterway.
- (D) *Undrainable lands*. No building permit shall be issued for the construction of any building upon ground which cannot be properly drained.
- (E) Protection of existing drainage installations. Where application is made for a building permit and subsequent investigation shows that the property to be occupied by the building is adjacent to a portion of a public road or street containing a drainage culvert, catch basin, sewer, special ditch, or any other artificial drainage structures used for the purpose of draining that property or neighboring property, the applicant shall specifically agree in writing to protect these waterways in such a way that they shall not be affected by the proposed building construction or grading work incidental thereto.
- (F) *Order to regrade*. The city may order the applicant to regrade property if existing grade does not conform to any provision of this section, if the grade indicated in the preliminary plan has not been followed, or if the grade poses a drainage problem to neighboring properties.
- (G) Construction site stormwater runoff control. Owners and operators of a construction activity shall develop site plans that must be submitted for review and approval, prior to the start of construction activity. Site plans must be kept up-to-date by the owners and operators of a construction activity with regards to stormwater runoff controls. Site plans shall incorporate erosion and sediment controls, waste controls, and best management practices as described in the permit.
 - (H) Post-construction stormwater management.
- (1) All owners and/or operators must submit site plans with post-construction stormwater best management practices, for review and approval, prior to the start of construction activity.
- (2) Stormwater runoff rates for proposed activities, development or redevelopment conditions, shall not exceed the existing conditions. Runoff rates may be restricted to less than the existing rates when necessary for the public health and general welfare of the watershed.
- (3) For new development projects there shall not be a net increase from pre-project conditions (on an annual average basis) of:
 - (a) Stormwater volume, unless precluded by the limitations and exceptions in the permit;
 - (b) Stormwater discharges of total suspended solids (TSS); and
 - (c) Stormwater discharges of total phosphorus (TP).
- (4) For redevelopment projects there shall be a net reduction from pre-project conditions (on an average annual basis) of:
 - (a) Stormwater volume, unless precluded by the limitations and exceptions in the permit;
 - (b) Stormwater discharges of total suspended solids (TSS); and
 - (c) Stormwater discharges of total phosphorus (TP).

- (5) Regional detention basins shall be utilized to manage peak flow rates and meet water quality objectives when feasible.
- (6) Stormwater calculations shall be provided for the two-year, ten-year and 100-year, 24-hour storm events. The precipitation depths for these storm events shall be obtained from National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Volume 8, published June 2013, or its successor, using the online NOAA precipitation frequency estimates. The applicant must document the location and event depths used.
- (a) The hydrologic and hydraulic design calculations shall include the design storm frequency, time of concentration, soil curve numbers, peak runoff rates and volumes for each watershed area, flow velocities, and infiltration rates where applicable.
 - (b) A calculation summary report shall be submitted.
- (7) Storm sewer pipes shall be designed for a ten-year storm event, unless a lower intensity event is allowed by the City Engineer. The use of the rational method shall be used for pipe design calculations.
- (8) If a stormwater management control measure depends on the hydrologic properties of soils (e.g. infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles.
- (9) Permanent sedimentation and water quality ponds shall be designed to meet Nationwide Urban Runoff Program (NURP) standards per Protecting Water Quality in Urban Areas (MPCA 2000). Provide an outlet skimmer to prevent migration of floatables and oils for at least the one year storm event; baffled weirs are not allowed.
- (10) The owner of a detention basin, water quality pond, infiltration facility, or a water quality treatment device, if not a governmental unit, shall provide to the city a recordable agreement detailing an operations and maintenance plan that assures that the structure(s) will be operated and maintained as designed.
- (11) Structure elevations. Any new residential, commercial, industrial or other habitable structures shall be constructed with the low opening elevation at least one foot above the 100-year flood level. The low floor shall be at least one foot above the normal water level. Low openings shall be at least one foot above the emergency overflow.
- (12) Development that creates one acre or more of new impervious surface must infiltrate runoff from impervious areas and address the use of best management practices to limit the effect of the loss of previous area.
- (a) One inch of impervious surface runoff must be infiltrated within 48 hours using accepted BMPs for infiltration, such as infiltration trenches, rainwater gardens, or infiltration basins. Infiltration volumes and facility sizes shall be calculated using the appropriate hydrological soil group classification and saturated infiltration rate from the table below. Documented site-specific infiltration or hydraulic conductivity measurements completed by a licensed soil scientist or engineer can be used in place of the values in the table.

Hydrologic Soils Group	Infiltration Rate (in/hr)	Soil Texture		
A	0.30 Sand, loamy sand, or sand loam			
В	0.15	Silt loam or loam		
С	0.07	Sandy clay loam		
D 0.03		Clay loam, silt clay loam, silty clay, or clay		

- (b) Prior to infiltrating runoff, pretreatment shall be required before the runoff enters the infiltration practice.
- (c) Prohibitions and/or restrictions may be placed on the infiltration techniques used to achieve conditions for post-construction stormwater management, without higher engineering review, sufficient to provide a functioning treatment system when the infiltration device will be constructed in areas as outlined in the permit.
- (d) *Linear projects*. Where lack of right-of-way precludes the installation of volume control practices that meet the conditions for post-construction stormwater management, a lesser volume control may be approved as allowed in the permit. A reasonable attempt must be made to obtain right-of-way during the project planning process for volume control practices.
- (I) When the post-construction stormwater management for total suspended solids and total phosphorus cannot be cost effectively managed on the site of the original construction activity, mitigation measures shall be met as required by the permit.
- (J) A legal mechanism(s) must be established for long-term maintenance of structural stormwater best management practices, constructed after August 1, 2013, that are not owned or operated by the city, but that are within the city's jurisdiction. The legal mechanism(s) shall meet the permit requirements.
- (K) Project review thresholds. No person or political subdivision shall commence a land disturbing activity or the development or redevelopment of land without first submitting plans to and obtaining approval from the city or commission as required in the Rules and Standards of the Shingle Creek and West Mississippi Watershed Management Commissions Rule D Stormwater Management.

(Ord. 2015-2, passed 4-27-2015)

№ 153.XXX SOLAR ALTERNATIVE ENERGY SYSTEMS

A. Purpose. To provide a resiliency and quality of life for the City's residents; making careful and effective use of available natural, human, and economic resources; and ensuring that resources exist to maintain and enhance the quality of life for future residents. The City finds that it is in the public interest to encourage alternative energy systems that have a positive impact on energy production and conservation while not having an adverse impact on the community. The purpose of this section is to:

- Accommodate alternative energy sources by creating a clear regulatory path for approving alternative energy systems.
- Create a livable community where development may incorporate resilient design elements such as resource and energy conservation and use of renewable energy.
- 3) Protect and enhance air quality and decrease use of fossil fuels.
- Accommodate alternative energy development in locations where the technology is viable and environmental, economic, and social impacts can be mitigated.
- Encourage development by establishing reasonable requirements for performance, safety, design, and aesthetics of alternative energy systems.

B. Solar Energy Systems.

- 1) Zoning District Allowance. Solar energy systems in accordance with the standards in this chapter are allowed as a permitted accessory use in all zoning districts.
- 2) General Standards.
 - i. Exemption. Passive or building integrated solar energy systems are exempt from the requirements of this Section and shall be regulated as any other building element.
 - ii. Height. Roof mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district. Ground mounted solar energy systems shall not exceed the height of the principal structure or fifteen (15) feet in height, whichever is less.
 - iii. Location. In residential zoning districts, ground mounted solar energy systems shall be limited to the rear yard. In nonresidential districts, ground mounted solar energy systems may be permitted in front yards, side yards adjacent to public rights-of-way, and rear yards
 - iv. Setbacks. Ground mounted solar energy systems shall comply with all accessory structure setbacks in the applicable zoning district. Roof mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.
 - v. Roof Mounting. Roof mounted solar collectors may be flush mounted or bracket
 mounted. Bracket mounted collectors shall be permitted only when a determination is
 made by the City Building Official that the underlying roof structure will support
 apparatus, wind, and snow loads and all applicable building standards are satisfied.
 The Building Official may require the applicant to supply engineers' drawings,
 reports, analyses, or other documents to aid in this determination.
 - vi. Easements. Solar energy systems shall not encroach on public drainage, utility roadway, or trail easements.
 - vii. Screening Solar energy systems shall Solar energy systems be screened from view to the extent possible without impacting their function. Ground-mounted solar energy systems shall be considered "New Construction" and shall be subject to Site Plan Review under § 153.153 of this ordinance.
 - viii. Impervious coverage. Ground mounted solar energy systems shall not be counted against the maximum impervious coverage of a lot unless the surface they are mounted on is impervious.

Commented [**49]:** I suggest including definitions of terms in this new section to avoid any confusion in the future.

Commented [NA50]: Another option would be to require Site Plan Review for installations of a certain size/impact, e.g.: "Visual Impact – Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures."

- ix. Maximum Area. Ground mounted solar energy systems shall be limited in size to the maximum area requirement allowed for accessory structures or no more than twenty-five (25) percent of the rear yard, whichever is less.
- x. Aesthetics. All solar energy systems shall minimize glare toward vehicular traffic and adjacent properties. The supporting framework for freestanding solar energy systems shall not include unfinished lumber.
- xi. Feeder Lines. The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.
- xii. Standards and Certification.
 - Standards. Solar energy systems shall meet the minimum standards outlined by the International Electrotechnical Commission (IEC); the American Society Of Heating, Refrigerating, And Air-Conditioning Engineers (ASHRAE); ASTM International; British Standards Institution (BSI); International Organization For Standardization (ISO); Underwriter's Laboratory (UL); the Solar Rating And Certification Corporation (SRCC); or other standards as determined by the City Building Official.
 - 2. Certification. Solar energy systems shall be certified by Underwriters
 Laboratories, Inc., and the National Renewable Energy Laboratory, the Solar
 Rating And Certification Corporation or other body as determined by the
 Zoning AdministratorOfficer for conformance to IEC or AWEA standards.
 The City reserves the right to deny a building permit for proposed solar
 energy systems deemed to have inadequate certification.
- xiii. Utility Connection. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect shall be provided if required by the utility.
- xiv. Abandonment. If a solar energy system remains nonfunctional or inoperative for a continuous period of one (1) year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including transmission equipment.
- xv. Permit. A building permit shall be obtained for any solar energy system prior to installation.
- 3) Application Criteria for Deviations from Standards. Deviations to the standards in this Section may be permitted as a Conditional Use. In granting a Conditional Use Permit, the City Council shall consider the following additional criteria unique to alternative energy systems:
 - That the deviation is required to allow for the improved operation of the alternative energy system.
 - ii. That the alternative energy system has a net energy gain.
 - iii. That the alternative energy system does not adversely affect solar or wind access to adjacent properties.
 - iv. That the alternative energy system complies with all other engineering, building, safety, and fire regulations.
 - —That the alternative energy system is found to not adversely impact the area, including impacting have any adverse impacts on the area including the health,

Commented [NA51]: Alternate language: In residential districts, the area of the solar collector surface of freestanding solar energy systems shall not exceed five (5) percent of the lot area.

safety, and general welfare of occupants of neighboring properties and users of public rights-of- way.

i.√V.

OFF-STREET PARKING

■§ 153.070 PURPOSE; SITE PLAN.

- (A) The regulation of all off-street parking spaces is intended to alleviate or prevent congestion of the public right-of-way and so to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking in accordance with the utilization of various parcels of land or structures.
- (B) All applications for permits required under this chapter in all districts shall be accompanied by a site plan drawn to scale and dimension indicating the location of off-street parking and loading spaces in compliance with the following requirements. The parking plan shall also show pedestrian connections within the property and to existing or planned public sidewalk and trail connections.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

№ 153.071 YARDS.

Parking areas and garage stalls accessory to residential structures shall be subject to front yard and to side yard requirements on a street abutting a corner lot in accordance with the requirements for the use district in which the parking is located, except that when the parking area is the primary rather than accessory use of a particular property and when that property abuts a lot in the commercial or industrial districts and is in the same ownership as the land in those districts, the front and side yard depths may be reduced to not less than ten feet.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

§ 153.072 SEATING CALCULATION; BENCHES.

In stadiums, <u>churchesreligious institutions</u>, and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 22 inches of seating facility shall be counted as one seat for the purpose of determining required parking.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

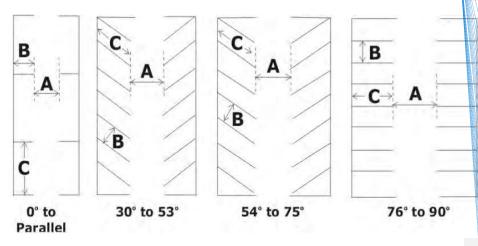
§ 153.073 PARKING SPACES; DIMENSIONS.

Each parking space shall be not less than nine feet wide and 20 feet in length, and each space shall be served adequately by access drives. For purposes of calculating parking space requirements, one parking space for one vehicle shall equal 300 square feet of storage and maneuvering area, including access drives.

(A) Each parking space and aisle shall comply with the minimum dimensions in Table ## as illustrated in Figure ##.

Parking Space and Aisle Dimensions						
	One-Way	,	,	Parking Stall Length (Feet)		
	Maneuvering	Maneuvering		"C"		

Angle of Parking	Aisle Width (Feet) "A"	Aisle Width (Feet) "A"	Compact Size	Low Turnover	Full Size	Compact Size	Low Turnover	Full Size
(degrees)								
0° -	12	20	8	8.5	9	18	22	22
Parallel								
30°- 53°	14	20	8	8.5 <mark>,</mark>	9	16	20	20
54°-75°	18	22	8	8.5	9	16	20	20
76°- 90°	22	24	8	8.5	9	16	18	18



- (B) When the length of a parking space abuts a column, fence, wall, or other obstruction, the required width of the entire parking space shall be increased by at least one foot.
- (C) Use of compact vehicle spaces.
- (1) A maximum of 20 percent of spaces required for a use may be provided by compact parking spaces.
- (2) Compact spaces shall be clearly labeled for "compact cars" and grouped together in one or more locations or at regular intervals so that only compact cars can easily maneuver into the space.
- (D) Use of low turnover parking. Narrow parking spaces may be established in locations where the typical user parks for more than two hours. Minimum off-street parking dimensions for low turnover parking spaces are identified in Table ##.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles. No motor vehicle over one and one-half ton capacity bearing a

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commercial license and no commercially licensed trailer shall be parked or stored in a residential district except when loading, unloading, or rendering a service. Under no circumstances shall parking facilities accessory to residential structures be used for open area storage of commercial vehicles.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

■§ 153.075 PARKING SPACE LOCATION.

- (A) Spaces for dwellings shall be on the same lot as the dwelling unit.
- (B) Spaces for commercial retail uses or for public or semi-public uses, excepting shopping centers, shall be within 300 feet of the main entrance of the building being served.
- (C) Spaces for industrial uses shall be within 800 feet of the main entrance of the building being served.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

- (A) Residential districts.
- (1) Open parking spaces accessory to one- and two-family structures may be located anywhere on the lot containing the principal structure.
- (2) Open parking spaces or areas designed for three or more vehicles and garage stalls accessory to residential structures shall be set back at least five feet from an interior side lot line and at least eight feet from a rear lot line.
- (3) Motor vehicles are required to be parked on designated parking spaces or areas (such as, driveway). All other parking areas are prohibited.
- (B) All other districts. Off-street parking spaces shall not be less than ten feet from a street right-of-way line nor less than five feet from any interior side lot line or rear lot line, except where a side lot line or rear lot line is abutting a residential district, when off-street parking shall not be less than ten feet from those lot lines.

(1997 Code, § 25.10) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.077 JOINT PARKING FACILITIES.

- (A) Required parking facilities serving two or more uses may be located on the same lot or in the same structure, provided that the total number of parking spaces so furnished shall be not less than the sum total of the separate requirements for each use during any peak hour parking period when the parking facility is utilized at the same time by two or more uses.
 - (B) Conditions required for joint use are:
 - (1) The proposed joint parking space is within 400 feet of the use it will serve;
- (2) The applicant(s) shall show that there is no substantial conflict in the principal operating hours of the two or more buildings or uses for which joint use of off-street parking facilities is proposed; and

(3) A properly drawn legal instrument approved by the City Attorney, executed by the parties concerned for joint use of off-street parking facilities, shall be filed with the Administrator. This instrument may be a three- or more party agreement including the city.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

§ 153.078 DESIGN AND MAINTENANCE.

- (A) Access. Access and parking areas shall be designed so as to provide an adequate means of access to a public alley or street. The driveway shall be limited so as to cause the least interference with traffic movement. All public parking areas shall have access off driveways and not directly off a public street. All outside parking spaces shall be clearly marked. Traffic shall be channeled and controlled in a manner that will avoid traffic hazards including obstacles to safe pedestrian access.
- (B) Calculating space. All square-footage-based parking standards shall be computed on the basis of gross floor area of all floors in a nonresidential building. Up to 15 percent of the gross floor area may be excluded from the above calculation if the area is used for storage, loading, unloading, or for mechanical equipment. When the determining of the number of required off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space. Entrances, exists, or driveways shall not be computed as any part of a required parking lot or area, except in the case of one or two family dwellings where driveways may be used in calculating the amount of off-street parking.
- (C) Signs. Signs located in any parking area necessary for orderly operation of traffic movement shall be in addition to accessory signs permitted in other sections of this chapter.
- (D) *Surfacing*. All of the area intended to be utilized for parking space and driveways shall be surfaced with an impervious material to control dust and drainage and subject to the approval of the Council except parking areas for less than three vehicles. This requirement also applies to open sales lots.
- (1) Within all zoning districts, parking lots and driveways shall be paved and permanently maintained with asphalt, concrete, or approved paving units.
- (2) Parking lots and driveways may be constructed with the use of other all-weather surfacing as determined to be appropriate by the City Engineer, where it is first determined that a surface other than asphalt or concrete is consistent with the driveway of similar properties in the vicinity, and that the alternate surface will not impair accessibility for emergency vehicles.
- (E) Striping and identification. Parking spaces shall be clearly outlined with four-inch wide lines painted on the parking surface. The striping shall be continuously maintained in a clear and visible manner in compliance with the approved plans.
- (E) Lighting. Exterior lighting shall not be directed upon adjacent land or the public right-of-way.
- (F) *Curbing and landscaping*. All open off-street parking areas designed to have head-in parking, or any other off-street parking area configuration, along the interior property line, shall provide a concrete bumper curb not less than five feet from that property line or a guard of normal bumper height not less than five feet from that property line. When the area is for six

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Commented [55]: Is this a term Osseo uses? It is directly from Crystal's code and is the only time "approved plans" appears in this document.

Commented [NA56R55]: I'm open to suggestions on revision. We do approve site plans under 153.153 or as part of a CUP or PUD; that is what I am trying to refer to.

spaces or more and not located to the rear of the building, a fence or hedge not over three feet in height shall be erected or planted along the front yard setback line, and grass or hedge shall occupy the space between the sidewalk and fence.

- (G) *Curb and gutter*. Off-street parking facilities are required to have concrete curbing and guttering. Existing off-street parking facilities are required to meet this requirement when modifying or expanding the facility.
- (H) *Permanent spaces*. Each parking space shall be permanently available, marked, and maintained for parking purposes for the use which it is intended to serve.
- (I) Spaces for people with disabilities. Parking spaces serving people with disabilities shall be provided in compliance with all applicable state and federal requirements. If practicable, spaces for people with disabilities shall be located so they provide easy access from the closest parking are to the major entrance of the use for which they are provided.

(1997 Code, § 25.10) (Ord. passed 11-14-1994) Penalty, see § 10.99

■§ 153.079 REQUIRED NUMBER OF OFF-STREET PARKING SPACES.

The required number of off-street <u>automobile</u> parking spaces shall be as set forth in Appendix B of this chapter.

Bicycle parking shall be provided as follows...

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

In general, the above off-street parking requirements may be reduced when applied to uses within the CBD district, upon approval of the City Council. The intent of the reduction is to preserve the compact, pedestrian-oriented character of the downtown to the extent possible. In the event of a sizable redevelopment project within the CBD district, off-street parking spaces shall be provided as required by the City Council.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

SIGNS

...

PLANNED UNIT DEVELOPMENTS

NON-CONFORMING STRUCTURES, USES, AND LOTS

■§ 153.130 NON-CONFORMING STRUCTURES AND USES.

- (A) Purpose. This subsection is intended to provide for the regulation of uses, structures, lots, or site improvements which lawfully existed prior to the effective date of the zoning ordinance or subsequent amendments, but which fail to comply with one or more current regulations.
- (B) Definitions. The following terms and accompanying definitions are used in the context of nonconformities.

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- (1) Expansion. For the purposes of nonconformities, expansion includes, but is not limited to, intensification of the use, expansion of the use to a portion of the property not previously used, or increased structure dimensions.
- (2) Improvement. Where a nonconformity is made more compatible with the use of adjacent properties, efficient, and/or more aesthetically pleasing. For the purposes of nonconformities, an improvement does not include an expansion.
- (3) Maintenance. Normal repair, restoration, and improvement including cosmetic changes. For the purposes of nonconformities, maintenance does not include new construction or expansion of a use or structure.
- (4) Repair. For the purposes of nonconformities, repair means to restore to good condition by replacing or reassembling broken, worn out or malfunctioning components. Repair does not include expansion.
- (5) Replacement. Construction that provides a substitute substantially equivalent to the preexisting conditions that preceded damage or destruction.
- (6) Restoration. For the purposes of nonconformities, restoration means to restore or repair to good condition by replacing or reassembling broken, worn out or malfunctioning components. Restoration does not include expansion.
- (AC) Existing uses. The lawful use or occupation of any land or building existing at the time of the adoption of theis zoning chapter on November 14, 1994 ordinance or subsequent amendments may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless: (1) the nonconformity or occupancy is discontinued for a period of more than one year; or (2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged at the size and in the manner of operation existing on that date, even if the use does not conform to the regulations of this chapter, and if the use has not at any time been discontinued and continues to exist on the date of the adoption of this chapter. The use Nonconformities, however, shall be subject to the provisions following in this subchapter.
- (BD) Non-conforming use not made conforming. The use of any land or buildings that did not conform to the provisions of the prior city zoning ordinance adopted December 29, 1955, or amendments thereto, do not become conforming uses under this chapter unless specifically provided in this chapter. This chapter does not make permitted uses out of any uses that were not permitted under the prior city zoning ordinance unless specifically permitted by this chapter.
 - (CE) Restrictions on changes.
- (1) Repair or maintenance. A non-conforming building or structure may be repaired or maintained, subject to the limitations of this chapter. Normal maintenance of a non-conforming building or structure is permitted; including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use.
- (2) Enlargement. A non-conforming building, or structure, or use shall not be added to or enlarged in any manner unless the additions or enlargements are constitute improvements made to bring the building or structure into conformity with the regulations of this

chapter. No non-conforming use shall be expanded to occupy a greater area than was occupied when the use became non-conforming, except in the following case: a non-conforming use may be extended throughout any parts of a building which were arranged or designed for that use when the use became non-conforming, but no such use shall be extended to occupy land outside the building.

- (3) Restoration. A non-conforming building or structure which is damaged by fire or other cause to an extent of more than 50% of its market value shall not be restored except in conformity with the regulations of this chapter. However, if a building permit has been applied for within 180 days of when the building or structure is damaged, then the building or structure may be restored to its pre-damage non-conforming status subject to the applicability of the Minnesota State Building Code and other requirements of the Osseo Code of Ordinances.
- (4) Maintenance. Normal maintenance of a non conforming building or structure is permitted; including necessary non structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use.
- (5) Enlargement or alteration. No non-conforming structure or use shall be enlarged, increased, or extended to occupy a greater area than was occupied when the use became non-conforming, except in the following case: a non-conforming use may be extended throughout any parts of a building which were arranged or designed for that use when the use became non-conforming, but no such use shall be extended to occupy land outside the building.
- (64) Relocation. No non-conforming use or structure shall be moved in whole or in part to any other part of the parcel of land upon which the same was conducted at the time of passage of this chapter, nor shall that use or structure be moved in whole or in part to any other lot, except to bring it into conformance with the regulations of this chapter.
- (75) Discontinuance or abandonment. A non-conforming use or structure that has been discontinued or abandoned for more than one year shall not be re-established, and any future use shall be in conformity with the regulations of this chapter.
- (86) Status change. A non-conforming use of a building or land may be changed to a similar non-conforming use or a more restrictive non-conforming use. Once a structure or parcel of land has been changed to a more restrictive non-conforming use, it shall not return to a less restrictive use.
- (a) When a non-conforming structure or use of land has been changed to a conforming use, it shall not thereafter be changed back to a non-conforming use.
- (b) When a non-conforming use or structure meets the requirements for, and is granted, a conditional use permit as an allowed conditional use in that district, the use or structure is thereafter deemed a conforming use.

(7) Safety. Nothing in this subsection shall prevent the repairing of a structure to a safe condition when said structure is declared unsafe by the proper authority.

(1997 Code, § 25.07) (Ord. passed 11-14-1994; Am. Ord. 2006-3, passed 5-8-2006) Penalty, see § 10.99

■§ 153.131 NON-CONFORMING LOTS OF RECORD.

- (A) Dwellings on small lots. In any district in which one-family dwellings are permitted, a one-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. The lot must be in separate ownership. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located, but in no case shall building be permitted on a lot less than 50 feet in width. Variance of yard requirements shall be obtained only through action of the Board of Appeals.
- (B) Lots in the same ownership. If two or more lots, or combinations of lots and portions of lots, with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

(1997 Code, § 25.07) (Ord. passed 11-14-1994) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 153.145 ZONING OFFICER; ADMINISTRATOR.

- (A) Zoning Officer. The specific duties of the Zoning Officer include:
 - (1) Providing zoning information upon request;
- (2) Receiving applications for conditional use permits, variances, amendments, and appeals, referring the applications to the appropriate official body, notifying affected property owners of required public hearings, and publishing notice of the hearings;
- (3) Notifying applicants for conditional use permits, variances, amendments, and appeals of actions taken by the official bodies relative to their applications;
- (4) Periodically inspecting buildings, structures, and uses of land to determine compliance with the terms of this chapter. In regard to performance standards, the Zoning Officer may require the services of a testing laboratory to determine compliance. The cost of employing the laboratory shall be paid for by the owner if a violation of this chapter is established, otherwise by the city:
- (5) Investigating violations, notifying persons accused of violations and describing the nature thereof, and initiating appropriate actions against violators as provided by law;
- (6) Maintaining permanent and current records of this chapter and the official Zoning Map, including but not limited to special use permits, variances, amendments, appeals, and applications therefor; and

Commented [**59**]: Should this say "conditional use permits" instead?

Commented [NA60R59]: Perhaps "special use" would include conditional as well as interim use permits

- (7) Ordering discontinuance of illegal use of land, buildings, or structures; ordering removal of illegal buildings, structures, additions, alterations; ordering discontinuance of illegal work being done; or taking any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.
- (B) Administrator. This chapter shall be administered and enforced by the Administrator who is appointed by the City Council. The Administrator may institute in the name of the city appropriate actions or proceedings against a violator as provided by statute, charter, code provision, or ordinance.

(1997 Code, § 25.12) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.146 BOARD OF APPEALS.

- (A) Statutory authority. M.S. § 462.354, as it may be amended from time to time, requires any municipality having in effect a zoning ordinance to provide by ordinance for a board of appeals and adjustments. The statute also states that the governing body may provide, alternatively, that there be a separate board of appeals and adjustments, or that the governing body, the planning commission, or a committee of the planning commission serve as the board of appeals and adjustments, and it may provide an appropriate name for the board. The board may be given other duties as the governing body may direct.
- (B) *Establishment*. The City Council is hereby established as the required board of appeals and adjustments, this board to be herein referred to as the Board of Appeals or the Board. The City Council, acting as the Board of Appeals, shall be vested with that administrative authority as is hereinafter provided or as provided by state law.
 - (C) Duties. The duties of the Board of Appeals shall be:
- (1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Officer;
 - (2) To hear and decide requests for variances from the literal provisions of this chapter; and
- (3) To interpret the meaning of the chapter in cases of ambiguity and to make rulings with respect to the application of the provisions.
 - (D) Proceedings.
- (1) The Board of Appeals shall-may adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter.
- (2) Meetings shall be held at the call of the Chair and at other times as the Board may determine. The Chair, or in his or her absence, the Acting Chair, may request the attendance of witnesses. All meetings shall be open to the public.
- (3) The Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Administrator Clerk Treasurer.

(1997 Code, § 25.12) (Ord. passed 11-14-1994)

Commented [61]: Or "Zoning Officer"?

Commented [NA62R61]: Chapter 32 designates City Officials as the Administrator, City Clerk, Treasurer, and City Attorney (only).

I think the intent is that the City Administrator is ultimately the authority/responsible party for this ordinance.

- (A) Appeals to the Board of Appeals may be taken by any person aggrieved or by any official or department of the city affected by any decision of the Zoning Officer. Appeals shall be taken within 60 days of the decision by filing with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (B) The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person, by agent, or by attorney.

(1997 Code, § 25.12) (Ord. passed 11-14-1994)

§ 153.148 PLANNING COMMISSION DUTIES.

Planning Commission duties in zoning administration shall be:

- (A) To hold public hearings on applications for amendments to this chapter. The Commission shall not have the authority to make changes or amendments to this chapter; it shall act in a purely advisory manner to the City Council, making its recommendation in all cases referred to it, and transmitting this to the City Council for final action;
- (B) To consider applications for conditional special use permits and interim use permits provided for within this chapter and to transmit its recommendation to the City Council for final action; and
- (C) To consider applications for variances and appeals and to transmit a recommendation to the Board of Appeals.

(1997 Code, § 25.12) (Ord. passed 11-14-1994)

■§ 153.149 BUILDING PERMITS.

- (A) Building permits. Hereafter no person shall erect, alter, remodel, wreck, or move any kind of a structure, building, or part thereof without first securing a building permit from the city.
- (B) Certificate of occupancy. Hereafter, no new building or addition, and no land whose use has been changed, shall be occupied other than for a public utility use until a certificate of occupancy has been issued stating that the new occupancy complies with all applicable ordinances and code provisions.
- (C) Exhibits. Each application for a building permit shall be accompanied by the following exhibits unless waived by the Zoning Officer: exposed lot pins, plot plan, or certificate of survey indicating location, size, and place of proposed structure and yards, parking and loading facilities, vehicular access and egress, and utility plan including surface drainage, foliage, topography, waterways, and soil boring is to be included if pertinent.
- (D) Permit application procedure. The procedure for applying for a building permit shall be as follows.
- (1) The property owner or his or her agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.

Commented [63]: If Interim Uses are adopted by the City, elsewhere in this ordinance

Commented [NA64R63]: Or, "special use permits" if we decide that is an acceptable blanket term

- (2) The applicant shall file the completed application form, together with the required exhibits, including building plans, with the Zoning Officer or Building Official.
- (3) The Building Official shall review the application and plans and determine their compatibility with the Building Code and ordinances and code provisions.
- (4) The Zoning Officer determines the permit fee and collects the fee from the applicant. The building permit will then be issued if the proposed project complies with the provisions of this chapter.
 - (E) Expiration of building permit.
- (1) If the work described in any building permit has not begun within 90 days from the date of issuance thereof, the permit shall expire; it shall be cancelled by the Zoning Officer, and written notice thereof shall be given to the persons affected.
- (2) If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, or if no work has been done on the building for 90 days, the permit shall expire and be canceled by the Zoning Officer, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

(1997 Code, § 25.12) (Ord. passed 11-14-1994) Penalty, see § 10.99

₽§ 153.150 VARIANCES.

- (A) GeneralLimitations. Variations from the provisions of this chapter may be granted by the Board of Appeals only in instances where all of the following criteria are found to exist:
 - (1) The applicant establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control ordinance. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems; and
 - (2) Unusual or unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and such circumstances were not created by any persons presently having an interest in the property; and
 - (3) The variance, if granted, would not alter the character of the neighborhood. The completed project would not impair an adequate supply of light and air to adjacent properties, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish property values, or have a detrimental or injurious impact on surrounding properties; and
 - (4) The variance requested is the minimum variance that would alleviate the practical difficulty; and-
 - (5) The variance requested will not alter the essential character of the locality; and-
 - (6) The variance requested is in harmony with the general purpose and intent of the ordinance and consistent with the comprehensive plan.
- (B) the strict enforcement of this chapter would cause undue hardship because of circumstances unique to the individual property under consideration, and only when it is demonstrated that the variance will be in keeping with the spirit and intent of this chapter. Undue hardship, as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section M.S. § 216C.06, Subd. 2, as it may be amended from time to time, when in harmony with this chapter. The Board of Appeals may not permit as a variance any use that is not permitted under the ordinance for property in the zone where the affected person's land is located. The However, the Board may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling.

Commented [65]: The term "control" is unique to this section, I suggest using "ordinance" instead as is done in subsection 6. The language is from Minn. Stat. 462.357 subd. 6 (2).

Commented [66]: Or change to "this Chapter"

Commented [NA67]: Can a variance be "temporary"?

- (C) The Board may impose restrictions and conditions upon the premises benefitted by a variance as it considers necessary so that the public health, safety, and general welfare may be secured and substantial justice done.
- (BD) *Exhibits*. Application for variances shall be accompanied by the boundary survey and site plan as required for building permit applications.
- (EE) Application procedure. The procedure for applying for a variance from the regulations of this chapter shall be as follows.
- (1) The property owner or his or her agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits, with the Zoning Officer and shall pay the required filing fee.
- (3) The Zoning Officer shall transmit the application and one copy of the exhibits to the Chair of the Board of Appeals and Planning Commission.
- (4) The Planning Commission shall consider the application for variance and make recommendations to the Board of Appeals.
- (5) The Board of Appeals may hold public hearings as it may consider necessary on a proposed variance.
- (D) Standards for granting variance. The Board of Appeals may vary the regulations of this chapter when supporting evidence in each specific case indicates that the criteria in subsection (A) have been met.
- (E) Recording of variance. If approved, a certified copy of the variance decision shall be filed by the applicant with the Hennepin County Recorder or Registrar of Titles.
- (F) Expiration of variance. Any variance shall expire one year after it has been granted unless:
 - (1) The project for which the variance was granted is completed within the one-year period;
 - (2) Building permits have been issued and substantial work performed; or
- (3) Upon written request of the person or corporation holding the variance, the Council extends the expiration date for the unexpired variance for an additional period.
- (G) *Term of variance*. If the project is completed as approved, the variance shall run with the land and remain in effect for so long as the conditions regulating it are observed.÷
- _____(1) Because of the particular physical surroundings, shape, or topographic conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
- (2) The conditions upon which the petition for a variance is based are unique to the parcel of land for which the variance is sought and are not applicable, generally, to other property with the same zoning classification;
- (3) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the parcel of land;

- (4) The alleged difficulty or hardship is caused by the provisions of this chapter and has not been created by any persons presently or formerly having an interest in the parcel of land;
- (5) The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity in which the parcel of land is located;
- (6) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the vicinity; and
- (7) Adherence to the regulations of this chapter would create an undue hardship because of inadequate access to direct sunlight for solar energy systems.

(1997 Code, § 25.12) (Ord. passed 11-14-1994)

§ 153.151 CONDITIONAL USE PERMITS.

- (A) *Permit required*. Before a building or premises is devoted to any use classified under conditional uses in this chapter, a conditional use permit must be granted by the City Council following a recommendation by the Planning Commission.
 - (B) Exhibits. The following exhibits shall be required:
- (1) The boundary survey and site plan as required for building permit applications, including the property legal description; and
- (2) Elevation drawings indicating the design treatment of all proposed buildings and structures, and general floor plans of the buildings, and .
 - (C) Procedures. The procedure for obtaining a conditional use permit is as follows.
- (1) The property owner or his or her agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits, with the Zoning Officer and shall pay the required filing fee.
- (3) The Zoning Officer shall transmit the application and exhibits to the Planning Commission and shall place the matter on the next available Planning Commission agenda.
- (4) The Planning Commission shall study the application to determine possible adverse effects of the proposed conditional use and to determine what additional requirements may be necessary to reduce those adverse effects, and shall recommend one of three actions: approval, denial, or conditional approval. The Planning Commission may hold public hearings as it may consider necessary on a proposal for a conditional use permit.
- (5) The Planning Commission shall transmit its recommendation to the City Council for its official action.
- (6) The City Council shall act on the application after receiving the recommendation of the Planning Commission.
 - (D) Standards for granting conditional use permits.
- (1) A conditional use permit may be granted by the City Council after demonstration by evidence that:
- (a) The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort, or general welfare;
- (b) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood;

- (c) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
- (d) Adequate utilities, access roads, drainage, and necessary facilities have been or will be provided:
- (e) Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and
- (f) The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
- (2) The Planning Commission may recommend, and the City Council may determine, conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as deemed necessary for the protection of the public interest and to secure compliance with the requirements specified in this chapter.
 - (E) Revocation of conditional use permits.
- (1) Where a conditional use permit has been issued pursuant to the provisions of this chapter, the permit shall become null and void without further action by the Planning Commission or the City Council unless work thereon commences within one year of the date of granting that conditional use. A conditional use permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than 12 consecutive months.
- (2) Failure to comply with any condition set forth in a conditional use permit shall be a misdemeanor and shall also constitute sufficient cause for the revocation of the conditional use permit by the City Council following a public hearing. The property owner shall be notified in advance of the City Council's review of the permit.
- (3) Inspections will may be conducted at least annually as needed to determine compliance with the terms of a conditional use permit. The City may review conditional use permits periodically and may revoke a permit upon violation of any condition of the permit.
- (F) Amendment of a Conditional Use Permit. A previously-approved Conditional Use Permit may be amended by the City Council following the same procedures used to establish a Conditional Use Permit. (F) Uses by conditional use permit not non-conforming uses. Uses authorized by conditional permit under this section shall not be deemed a non-conforming use, but shall without further action be considered a conforming use, but only in accordance with the conditions set forth in the conditional use permit.
- (F) Accessory uses to a conditional use. Uses and structures that are accessory to a conditional use shall be allowed as provided by this chapter, without requiring a conditional use permit amendment, unless specifically required as a condition of the conditional use permit approval.

(1997 Code, § 25.12) (Ord. passed 11-14-1994) Penalty, see § 10.99

Commented [68]:

151.15X Interim use permits.

- (A) Purpose. The purpose and intent of allowing interim uses is:
 - (1) To allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in the Comprehensive Plan; and
 - (2) To allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
 - (3) To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the comprehensive plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.
- (B) Application, public hearing, notice and procedure. The application, public hearing, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in § 153.151. In addition to the general planning and zoning application requirements, applications for interim use permits shall include:
 - (1) A signed statement agreeing:
 - a. That Tthe applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit;
 - b. That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
 - c. That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.
 - (2) A statement addressing the relationship of the proposed project to the neighboring uses.
- (C) General issuance standards. The Planning Commission shall recommend an interim use permit and the Council shall issue such interim use permit only if it finds, based on the proposed location, that:
 - (1) The period of time for which the interim use permit is to be granted will terminate before any adverse impacts are felt upon adjacent properties;
 - (2) The use will terminate upon a date or event that can be identified with certainty. Interim use permits may not be granted for a period greater than five (5) years;
 - (3) The use will not adversely impact the health, safety and welfare of the community during the period of the interim use;
 - (4) The use is similar to existing uses in the area;

- (5) An interim use shall conform to zoning regulations except the City Council may waive ordinance provisions upon a finding that the temporary nature of the interim use will eliminate the adverse effects the provisions were intended to prevent;
- (6) There is adequate assurance that the property will be left in suitable condition after the use is terminated;
- (7) By agreement, the use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
- (8) The property owner, by agreement, agrees to any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit; and
- (9) The property owner agrees to abide by any additional conditions that the Council deems appropriate for permission of the use.
- (D) Security deposit. Security deposits shall be provided as required by the City.
- (E) *Termination.* An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:
 - (1) The date stated in the permit; or
 - (2) Upon violation of conditions under which the permit was issued.

§ 153.152 AMENDMENTS; PROCEDURES.

- (A) *Adoption*. This chapter may be amended, changed, or altered only by a favorable majority vote of all members of the City Council, except that the adoption or amendment of any portion of this chapter which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-third's majority of all members of the City Council, and only after a public hearing has been duly advertised and held by the Planning Commission.
 - (B) Kinds of amendments. An amendment to this chapter may be one of the following:
 - (1) A change in a district's boundary (rezoning);
 - (2) A change in a district's regulations; or
 - (3) A change in any other provision of this chapter.
- (C) *Initiation of proceedings*. Proceedings for amending this chapter shall be initiated by at least one of the following three methods:
- (1) By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed;
 - (2) By recommendations of the Planning Commission; or

- (3) By action of the City Council.
- (D) Exhibits. Required exhibits for rezoning or district regulation changes initiated by a property owner are:
 - (1) The boundary survey and plot plan as required for building permit applications;
- (2) Elevation drawings indicating the design treatment of all proposed buildings and structures, and general floor plans of those buildings; and
- (3)—A list of all property owners within the affected area and within 350 feet of the outer boundaries of the subject area.(2) A written narrative describing the proposed rezoning or district regulation changes and the reason for the request; and
- (E) *Procedures*. The procedure for a property owner to initiate a rezoning or district regulation change applying to his or her property is as follows.
- (1) The property owner or his or agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits, with the Zoning Officer and shall pay the required filing fee.
- (3) The Zoning Officer shall transmit the application and required exhibits to the Planning Commission. Written notice of the public hearing shall be mailed at least ten days before the date of the hearing to the property owners within the affected zone and within 350 feet of the outer boundaries of the area in question; however, failure of any property owner to receive notification shall not invalidate the proceedings.
- (4) The Zoning Officer shall have notice of the required public hearing published in the official municipal newspaper not less than ten calendar days prior to the date of the hearing.
- (5) The Planning Commission shall hold the public hearing and shall recommend one of three actions: approval, denial, or conditional approval.
- (6) The Planning Commission shall transmit its recommendation to the City Council for its official action.
- (7) The City Council shall act upon the application after receiving the recommendation of the Planning Commission.

(1997 Code, § 25.12) (Ord. passed 11-14-1994)

§ 153.153 SITE PLAN APPROVAL.

The following provisions shall govern the Site and Building Plan approval process, as they relate to the scope of the proposed construction.

- (A) Site and Building Plan Approval Required. It is declared to be the policy of the city to preserve and promote attractive and stable business environments for its citizens through encouraging well-conceived, high quality developments. To this end, imaginative site design concepts shall be employed in the development and redevelopment of respective sites. With the exception of single family dwellings and two family dwellings, this site plan approval process applies to all new construction in the One and Two Family District (R-1), the High-Density Residential District (R-2), the Edge Mixed Use District (EMX), the Central Business District (CBD), the Highway Commercial Districts (C-2N & C-2S), and the Manufacturing and Industrial District (M) that involves one or more of the following:
 - (1) New construction;
- (2) Construction or reconstruction that substantially alters the floor area of the building greater than or equal to 10%;
- (3) Construction or reconstruction involving modification or replacement of the exterior materials on the building; of
 - (4) Construction or reconstruction to change the configuration of the parking area.
 - (B) Application.
- (1) Prior to commencing any construction, a Site and Building Plan application shall be initiated by the owner of subject property or by an authorized agent. The applicant shall submit a Site and Building Plan application to the Zoning Officer, copies of which are available at the municipal offices, together with a fee in an amount established by City Council resolution.
- (2) The Zoning Officer shall refer the matter to the Planning Commission by placing the application upon the agenda of the Commission's next <u>available</u> regular meeting.
 - (C) Exhibits. In addition to the application, the following exhibits shall be required:
- (1) A survey drawing by a registered engineer or land surveyor showing pertinent existing conditions, accurately dimensioned.
- (2) A complete set of preliminary drawings prepared by a registered civil engineer or landscape architect showing:
- (a) An accurately scaled and dimensioned site plan indicating parking layout, including access provisions, location of structures, grading plans, building elevations, landscaping, including trees and shrubbery with indication of species, planting, size, and location.
 - (b) Fences, walls, or other screening, including height and type of material.
 - (c) Lighting provisions, including type and location.
 - (d) Curbs.
 - (D) *Procedures*. The procedure for obtaining Site and Building Plan approval is as follows.

Commented [69]: What does "available" mean?

Commented [NA70R69]: There needs to be some 'discretion' or wiggle room in placing an item on the agenda—if I get an application on Friday, it can't be considered at a meeting the following Monday even if that is the "next regular meeting". I have a set schedule of application deadlines that is established annually, which allows time for staff review of an application & proper notice of a public hearing. The deadlines end up being on a Thursday about a month before the Planning Commission meeting, but that process is not reflected in ordinance. I'm open to suggestions about how to revise this section.

- (1) The property owner or his or her agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits, with the Zoning Officer and shall pay the required filing fee.
- (3) The Zoning Officer shall transmit the application and exhibits to the Planning Commission and shall place the matter on the next available Planning Commission agenda.
- (4) The Planning Commission shall study the application to determine possible adverse effects of the proposed Site and Building Plan and to determine what additional requirements may be necessary to reduce those adverse effects, and shall recommend one of three actions: approval, denial, or conditional approval. The Planning Commission may hold public hearings as it may consider necessary on a proposal for Site and Building Plan approval.
- (5) The Planning Commission shall transmit its recommendation to the City Council for its official action.
- (6) The City Council shall act on the application after receiving the recommendation of the Planning Commission.
- (E) Lapse of Site and Building Plan. An approved Site and Building Plan shall lapse and become null and void one year following the date on which the application was approved, unless prior to the expiration of one year, the Building Official issues a building permit and construction is commenced toward completion on the subject site. A Site and Building Plan may be renewed for a period of one year by the City Council.
- (F) Conditions and restrictions. The Planning Commission may recommend and the City Council may impose such conditions and restrictions as deemed necessary to protect the public interest and to secure compliance with the requirements of this section. The conditions may include the execution and submission of a Performance Agreement with a supporting financial guarantee that the subject property will be constructed, developed, and maintained in conformance with the plans, specifications, and standards.

(Ord. 2005-4, passed 7-11-2005)

§ 153.154 FEES.

- (A) Fees for building permits, variances, conditional use permits, and amendments shall be established from time to time by resolution of the City Council.
- (B) Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. There shall be no fee in the case of applications filed in the public interest by the City Council. Economic Development Authority or by the Planning Commission. If a dispute arises over a specific fee, the amount of the fee shall be paid but deposited and held in escrow, and the person aggrieved by the fee may appeal to district court. An approved application shall proceed as if the fee had been paid, pending a decision of the court.

(1997 Code, § 25.12) (Ord. passed 11-14-1994; Am. Ord. 2005-4, passed 7-11-2005)

§ 153.155 VIOLATIONS; REMEDIES NOT EXCLUSIVE.

- (A) Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Each day the violation continues shall be considered a separate offense.
- (B) The owner or tenant of any building, structure, premises, or part thereof, and any builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation as described above may be found guilty of a separate offense and suffer the penalties provided in this code.
- (C) Nothing herein contained shall prevent the city from taking other lawful action as is necessary to prevent or remedy any violation.

(1997 Code, § 25.12) (Ord. passed 11-14-1994; Am. Ord. 2005-4, passed 7-11-2005) Penalty, see § 10.99

■§ 153.156 JUDICIAL REVIEW.

Any person aggrieved by a decision or order of the City Council or Board of Appeals acting pursuant to this chapter may have the decision or order reviewed by an appropriate remedy in the District Court, subject to the provisions of state law.

(1997 Code, § 25.12) (Ord. passed 11-14-1994; Am. Ord. 2005-4, passed 7-11-2005)

Notwithstanding anything in this chapter to the contrary, the provisions of M.S. \S 15.99, as it may be amended from time to time, and the following sections shall govern the process for making decisions under this chapter. To the extent to which these sections conflict with the provisions of M.S. \S 15.99, as it may be amended from time to time, the provisions of the statute shall apply.

(Am. Ord. 2005-4, passed 7-11-2005)

Commented [71]:

- (A) Notwithstanding anything to the contrary in this chapter, all applications for any site plan, conditional use permit, variance, or for any other city approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the city, if the city has a form, to the Zoning AdministratorOfficer. The Zoning Administrator Officer is authorized to reject in writing any incomplete application within 15 business days of receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing. This rejection shall be sent by first-class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.
- (B) If a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.

(Am. Ord. 2005-4, passed 7-11-2005)

§ 153.159 FINAL ACTIONS.

- (A) As required by M.S. § 15.99, as it may be amended from time to time, the following provisions apply to the process for approving or denying applications for a zoning amendment, site plan, conditional use permit, land use permit, variance, or any other application which requires a city approval under chapter.
- (B) The city shall take final action to approve or deny an application described above within 60 days of receiving an application, unless the application is not accepted under § 153.156. If the city cannot take action to approve or deny the application within 60 days of receiving the application, the Zoning Administrator Officer is authorized before the end of the initial 60-day period, to make a one-time extension of the time for taking action by providing written notice by first-class mail to the applicant of the extension, the reasons for the extension, and its anticipated length, which may not exceed an additional 60 days unless approved by the applicant in writing.
- (C) When the final action to approve or disapprove an application is to be taken by the City Council, the Planning Commission or the Board of Appeals and Adjustments, if a vote on a resolution or properly made motion to approve the application fails for any reason, the failure shall constitute a denial of the application, provided that those voting against the motion state on the record the reasons why they oppose the application. A denial of an application because of a failure to approve a resolution or motion does not preclude an immediate submission of a same or similar application.
- (D) Except as provided in division (C), if the application is denied by the City Council, Planning Commission or Board of Appeals and Adjustments, whichever body has the authority to make the final decision to approve or deny an application, it must state the reasons for denial on the record and provide the applicant in writing a statement of the reasons for the denial. If this written statement is not adopted at the same time s the denial, it must be adopted at the next meeting following the denial of the application but before the expiration of the time allowed for making a decision under this section. The written statement must be consistent with the reasons

Commented [NA72]: KG to revise to remove duplication of statue language in ordinance

stated in the record at the time of the denial. The written statement must be provided to the applicant upon adoption.

(E) If the decision to deny the request is made by the Zoning <u>Administrator Officer</u> or other city official, the official must state in writing the reasons for the denial at the time the official denies the request.

(Am. Ord. 2005-4, passed 7-11-2005)

§ 153.160 ADDITIONAL EXTENSIONS OF TIME.

Minnesota Statutes § 15.99, as it may be amended from time to time, provides for certain exceptions to the time limits established in § 153.159. These exceptions are as follows. If the provisions of M.S. § 15.99, as it may be amended from time to time, are inconsistent with this section, then the provisions of that statute shall apply.

- (A) The time limit in § 153.159 is extended if a state statute, federal law, or court order requires a process to occur before the city acts on the application, and the time periods prescribed in the state statute, federal law, or court order make it impossible to act on the application within 60 days. In cases described in this division, the deadline is extended to 60 days after completion of the last process required in the applicable statute, law or order. Final approval of the city receiving an application is not considered a process for purposes of this division.
 - (B) The time limit in § 153.159 is also extended if:
- (1) An application submitted to a state agency requires prior approval of a federal agency; or
 - (2) An application submitted to the city requires prior approval of a state or federal agency.
- (C) In cases described in division (B), the deadline for action is extended to 60 days after the required prior approval is granted.

(Am. Ord. 2005-4, passed 7-11-2005)

■§ 153.161 APPLICATIONS FOR SUBDIVISION APPROVAL AND BUILDING PERMITS.

Sections <u>153.157</u> through <u>153.159</u> shall not apply to any request for action under the city's subdivision regulations or under M.S. § 462.358 or Ch. 505, as they may be amended from time to time. Neither shall they apply to request for a building permit.

(Am. Ord. 2005-4, passed 7-11-2005)

APPENDIX A: LOT REQUIREMENTS AND STANDARDS

APPENDIX B: OFF-STREET PARKING SPACE REQUIREMENTS

APPENDIX C: DISTRICT SIGN REGULATIONS

APPENDIX D: ZONING MAP

APPENDIX A: LOT REQUIREMENTS AND STANDARDS

	Building Height Max. (feet) ^c	Access. Height Max. (feet)	Lot Size Min (s.f)		Setbacks ^f					Minimum		
Zoning District				Lot Width Minimum (feet)	Front Yard (Feet)	Corner Side Yard (Feet)	Side Interior (Feet)	Rear Yard (Feet)	Accessory Side/Rear Yard (Feet) (Alley)	Site-Area Per Dwelling Unit (sq. feet)	Dwelling Floor Area Ratio	Max. Impervious Surface(%)
R-1											0	
One- family	25	10 ^g	8,250	50	25	25 °	15 b	5	5			50%
Two- family	25	10 ^g	10,000	50	25	25 °	15 ^b	5	5			50%
R-2												
Multiple family	25-35 (65) ^b	<u>10^g</u>	21,780-	<u>130</u> -	<u>35</u> -	<u>25</u> -	<u>10</u> -	<u>10</u> -			<u>N/A</u>	<u>60%</u>
Efficiency		10 ^g	21,780	130	35	25	10	10		400	N/A	50%
1- bedroom		10 ^g	21,780	130	35	25	10	10		525	N/A	50%
2- bedroom		10 ^g	21,780	130	35	25	10	10		650	N/A	60%
More		10 5	21,780	130	35	25	10	10		Add 125 s.f. each additional bedroom	N/A	60%
CBD	<u>3545</u>	15	7,200	50	0	0	0 d	0	0	N/A	N/A	100%
C-2	35	15	<u>15,0007,200</u>	90 50	45 <u>20</u>	45 <u>20</u>	10	10	20 10	N/A	1	60%
M	40	15	20,000	100	50 20	50 20	10	<u>2010</u>	<u>3510</u>	N/A	1	-

Definitions:

43,560 square feet = 1 acre

Floor area ratio = total floor area of principal and accessory structure in direct ratio to the gross area of the lot

Notes:

^a 65 ft. if structure is designed for multiple residents

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- ^b On interior lots, there must be at least 15 feet between dwellings with a minimum of 5 feet from the lot line
- ^c The buildable principal structure area must not be less than 32 feet in width, exclusive of setbacks
- d When a commercial building shares a common boundary with a residential use property, a side yard set back of 10 feet is required
- ^e The building height limits established herein for districts shall not apply to the following: belfries; chimneys or flues; church spires; cooling towers; cupolas and domes which do not contain useable space; elevator penthouses; flag poles; monuments; parapet walls extending not more than 3 feet above the limiting height of the building
- ^f The following shall not be considered as encroachment on required yard setbacks:
- (1) Flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two feet into the required yard
- (2) Ground level patio, i.e., patio that is flush with the ground
- (3) In rear yards, recreational and laundry drying equipment, arbors and trellises, detached outdoor living rooms, and air conditioning or heating equipment to a point not less than ten feet from the rear lot line
- (4) A one-story enclosed entrance for a detached one-family, duplex, or townhouse dwelling may extend into the front yard setback not exceeding four feet
- g Except private garages are allowed to be up to 15 feet in height

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Osseo Planning Commission Meeting Item

Agenda Item: Discuss Zoning Code Amendments

Meeting Date: December 9, 2019

Prepared by: Nancy S. Abts, AICP, City Planner

Attachments: Summary Presentation highlighting proposed changes

Memo from WSB regarding PI District

Memo from WSB regarding dimensional standards

Planning Commission Minute Excerpts
Zoning excerpt from Comprehensive Plan

Zoning Code 'Markup' showing proposed changes

Policy Consideration:

Hold a discussion on proposed amendments to the Zoning Code.

Previous Action or Discussion:

A preliminary schedule for completing these updates was proposed in August:

August 19	Planning Commission	Provide initial input on Code Updates				
September 16	Planning Commission	Review initial information on Code Updates				
October 21	Planning Commission	Public Hearing on Code Updates				
November 12	City Council	1st Reading (including any revisions)				
November 25	City Council	2 nd Reading & adoption				

Previously, the Planning Commission held a preliminary discussion of work to implement the Comprehensive Plan at their <u>April 15, 2019</u> meeting. Following direction from the City Administrator, additional work on Comprehensive Plan implementation was paused until adoption of the Plan.

On July 24, 2019, the Metropolitan Council reviewed and accepted Osseo's 2040 Comprehensive plan, and authorized the City to put the plan into effect. The Osseo City Council approved submitting the Comprehensive Plan to the Metropolitan Council on November 26, 2018, and adopted the 2040 Comprehensive Plan Update on August 12, 2019.

Budget or Other Considerations:

Due to the scope of the updates to the zoning ordinance, the City Attorney suggested holding a Council discussion tonight rather than a 1st Reading. When the Council is ready to adopt the code amendments, a 1st & 2nd Reading will need to be scheduled.

Background:

Under Minnesota State Statute, a city's zoning ordinance should "carry out the policies and goals of the land use plan" (MN Statute 462.357 Subd. 2). As such, all cities that update their land use plans must then follow up with

necessary revisions to the zoning ordinance to bring zoning controls into alignment with the goals and policies of the adopted comprehensive plan. Osseo began this process last month in coordination with planning consultants from WSB & Associates.

Dimensional Standards

Points of discussion around dimensional standards in existing districts are listed by district:

R-1: One and Two Family Residential

After discussion at the Planning Commission, no changes are proposed.

R-2: High-Density Residential

After discussion at the Planning Commission, no changes are proposed.

CBD: Central Business District

After discussion at the Planning Commission, increasing the building height maximum from 35 to 45 feet is proposed.

C2-Highway Commercial North & South

After discussion at the Planning Commission, decreasing the minimum lot size from 15,000 to 7,200 square feet is proposed. Reducing minimum lot dimensions is also suggested. For Width, 50 feet is proposed (reduced from 90). Front & Corner Side Yard setbacks are proposed to be 20 feet (down from 45), and Accessory Side/Rear Yard setbacks are proposed to be 10 feet (down from 20).

M-Manufacturing and Industrial

After discussion at the Planning Commission, reducing minimum lot dimensions is also suggested. Front & Corner Side Yard setbacks are proposed to be 20 feet (down from 50), and Accessory Side/Rear Yard setbacks are proposed to be 10 feet (down from 35).

Edge Mixed Use Zoning

A new 'Edge Mixed Use' zoning is proposed. This district would be applicable for certain redevelopment areas guided as "Edge Mixed Use" in the Comprehensive Plan. Overall, this new district is intended to allow certain types of development to take place without requiring the extensive negotiation and approvals process needed for a PUD. Projects would still undergo a standard Site/Building Plan Approval required for all development other than 1- and 2-family homes. (Development that doesn't meet the district requirements might proceed under a PUD.) This zoning is somewhat of a hybrid of the Central Business District and High-Density Residential District. However, unlike the CBD, it allows ground-floor residential by right. Unlike the R2 district, it allows some commercial uses by right.

Other features of the district include:

- A minimum of 3 dwelling units per residential structure
- A minimum and maximum front yard setback (to ensure consistency between buildings)
- Development substantially consistent with Osseo's Architectural Design Guidelines
- Limits on the amount of commercial space allowed by right in mixed-use buildings (larger commercial spaces are Conditional Uses)
- A height bonus for providing the "open space" or "park-like amenities" the land use guidance calls for
- Lower off-street parking requirements than R2 (1 space per dwelling unit, rather than 1.75) and no parking required for the first 3,000 square feet of commercial space
- Bicycle parking required (could apply just to this district, or citywide).

Many of the areas guided for Edge Mixed Use are located along the future Crystal Lake Regional Trail alignment along County Road 81 or the planned multiuse trail along County Road 30.

Interim Use Permits

In addition to the updates identified in the Comprehensive Plan, staff is proposing updating City Code to allow Interim Uses. Interim Uses are somewhat similar to Conditional Uses, but are allowed to terminate at a certain date or if other conditions change. Unlike Conditional Permits, there does not necessarily need to be a permit violation or a discontinued use in order for an Interim Use to be removed from a property.

Alternative Energy Systems

The Comprehensive Plan calls for Osseo to address solar energy in the zoning ordinance. The model ordinance provided by WSB also has sections on Geothermal Heat Pumps and Wind Energy Systems. These sections are included for Planning Commission review.

In general, low-impact Alternative Energy Systems are proposed as allowed accessory uses in all Zoning Districts, subject to the limitations on size, location, and suitability laid out in the ordinance.

This ordinance has been in place in the City of North Saint Paul for several years. Their staff report a positive response and modest utilization of the systems. (A handful of properties have installed alternative energy systems since the ordinance was adopted.)

Miscellaneous Updates

Some general miscellaneous/clerical updates are also proposed to the Zoning Ordinance, primarily to clarify requirements that already exist in code. Some reduced restrictions on Home Occupations are suggested, as are updated minimum dimensions for parking areas.

City Goals Met By This Action:

- 4) Improve the City's aging and deteriorating infrastructure
- 5) Continue to give Staff the necessary tools to do their jobs effectively and efficiently
- 6) Update City policies
- 10) Develop and implement the Comprehensive Plan
- 14) Promote a healthy and high quality standard of living

Recommendation/Action Requested:

The City Council is asked to discuss the proposed zoning ordinance amendments and direct staff accordingly.

Next Step:

New or updated ordinances typically are read at two Council meetings before they are adopted.

If the Edge Mixed Use Zoning District is established, an additional amendment to the Zoning Code would be required to rezone the properties into that district. (The Zoning Map is Appendix D of the Zoning Code.)

In 2020, additional work on the City's Planned Unit Development requirements and Subdivision Ordinance are planned.



Before we get started...

What effects do zoning ordinance changes have on pre-existing properties, buildings, & uses (e.g., future nonconformities)?

§ 153.130 NON-CONFORMING STRUCTURES AND USES.

- > This topic is already addressed in ordinance & state law.
- > Updates proposed to clarify purpose statement & define terms (including "expansion")

Purpose

This subsection is intended to provide for the regulation of uses, structures, lots, or site improvements which lawfully existed prior to the effective date of the zoning ordinance or subsequent amendments, but which fail to comply with one or more current regulations.

Definitions

- Expansion. ... includes, but is not limited to, intensification of the use, expansion of the use to a portion of the property not previously used, or increased structure dimensions.
- Improvement. Where a nonconformity is made more compatible with the use of adjacent properties, efficient, and/or more aesthetically pleasing. ... an improvement does not include an expansion.
- Maintenance. Normal repair, restoration, and improvement including cosmetic changes. ... maintenance does not include new construction or expansion of a use or structure.

- Repair. ... means to restore to good condition by replacing or reassembling broken, worn out or malfunctioning components. Repair does not include expansion.
- Replacement. Construction that provides a substitute substantially equivalent to the preexisting conditions that preceded damage or destruction.
- Restoration. ... to restore or repair to good condition by replacing or reassembling broken, worn out or malfunctioning components.
 Restoration does not include expansion.

Red/orange underline: New text

Bold: emphasis added

§ 153.130 NON-CONFORMING STRUCTURES AND USES. Existing Uses

The lawful use of any land or building existing at the time of the adoption of the zoning chapter on November 14, 1994 ordinance or subsequent amendments may be continued, at the size and in the manner of operation existing on that date, even if the use does not conform to the regulations of this chapter, and if the use has not at any time been discontinued and continues to exist on the date of the adoption of this chapter. The use, however, shall be subject to the provisions following in this subchapter.

Note: Osseo's first Zoning Ordinance was adopted in December 1958.

§ 153.130 NON-CONFORMING STRUCTURES AND USES.

Re-order existing requirements:

- (1) Repair or maintenance. A non-conforming building or structure may be repaired or maintained, subject to the limitations of this chapter. Normal maintenance of a non-conforming building or structure is permitted; including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use.
- (2) Enlargement and Expansion. A non-conforming building, structure, or use shall not be expanded in any manner unless the additions or enlargements constitute improvements made to bring the building or structure into conformity with the regulations of this chapter. No non-conforming structure or use shall be expanded, except in the following case: a non-conforming use may be extended throughout any parts of a building which were arranged or designed for that use when the use became non-conforming, but no such use shall be extended to occupy land outside the building.

Red/orange underline: New text

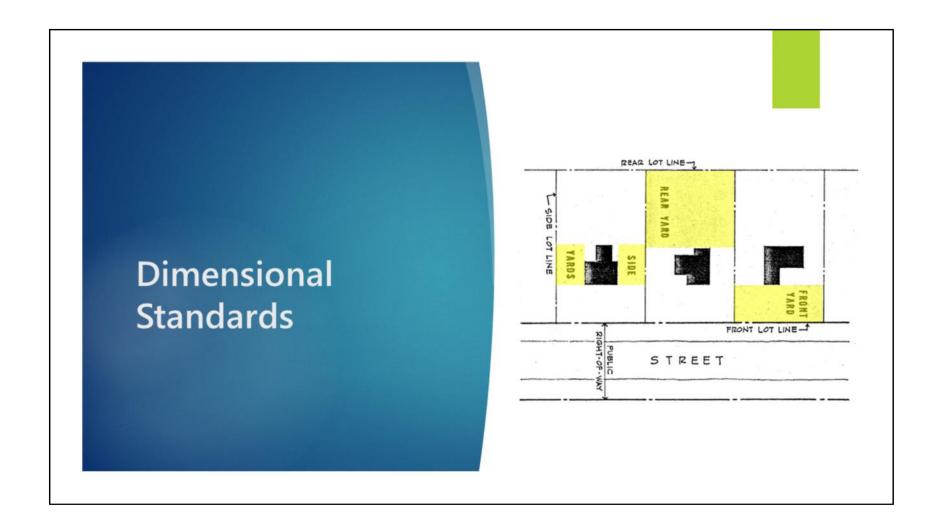
Green underline: Text relocated from another part of this section

Fun fact! § 153.131 NON-CONFORMING LOTS OF RECORD.

Dwellings on small lots. In any district in which one-family dwellings are permitted, a one-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. The lot must be in separate ownership. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located, but in no case shall building be permitted on a lot less than 50 feet in width. Variance of yard requirements shall be obtained only through action of the Board of Appeals.

The Planning Commission received a resident question about the impact on non-conforming lots of record in residential districts. The resident questioned whether the minimum R-1 lot sizes should be reduced so that fewer properties are non-conforming. However, as this existing text in the Zoning Ordinance provides, non-conforming residential lots can still be used for residential purposes. Additionally, to be in conformance with our Comprehensive Plan and System Statements, the City needs to maintain residential density of a minimum of 4 and a maximum of 8 units per acre.

Bold: Emphasis added (No changes proposed; this is just context)



										the second second	
Building Height Max. (feet)*	Access. Height Max. (feet)	Lot Size Min (s.f)	Lot Width Minimum (feet)	Setbacks ^f				Minimum Area			
				Front Yard (Feet)	Corner Side Yard (Feet)	Side Interior (Feet)	Rear Yard (Feet)	Accessory Side/Rear Yard (Feet) (Alley)	Per Dwelling Unit (sq. feet)	Dwelling Floor Area Ratio	Max. Impervious Surface(%)
										0	
25	10 ^g	8,250	50	25	25 °	15 b	5	5		-	50%
25	10s	10,000	50	25	25 °	15 b	5	5			50%
25-35 (65)b	10 ^g	21,780	130	35	25	10	10			N/A	60%
									400		
									525		
									650		
									Add 125 s.f. /		
									additional		
									bedroom		
35 (65)b	<u>15</u>	7,200	<u>50</u>	0 min 10 max.	0 min. 10 max	0	0	0	As R-2	N/A	100%
45	15	7,200	50	0	0	0 d	0	0	N/A	N/A	100%
35	15	15,000 <u>7,200</u>	90 50	45 <u>20</u>	45 <u>20</u>	10	10	20 <u>10</u>	N/A	1	60%
40	15	20,000	100	50 <u>20</u>	50 20	10	20 <u>10</u>	35 <u>10</u>	N/A	1	100%
	25 25 25 (65)b	Height Max. (feet) 25 10 ^a 25 10 ^a 25 10 ^a 25 10 ^a 25 35 (65) ^b 10 ^a 35 (65) ^b 15 35 15	Height Max. (feet) 25	Height Max. (feet) Lot Size Min (s.f) Minimum (feet) 25 10 ^g 8,250 50 25 10 ^g 10,000 50 25-35 (65) ^b 10 ^g 21,780 130 35 (65) ^b 15 7,200 50 45 15 7,200 50 35 15 15,000 7,200 90 50	Height Max. (feet)	Height Max. Height Max. Lot Size Min (s.f) Minimum (feet) Front Yard (Feet)	Height Max. Height Max. Height Max. (feet) Lot Size Min (s.f.) Lot Width Minimum Front Yard Corner Side Side Interior (Feet)	Height Max. Height Max. Height Max. Geet Height Max. Geet Height Max. Height Max. Height Max. Geet Geet Height Max. Geet Geet Height Max. Geet Geet	Building Access Height Max. (feet) Lot Size Min (s.f) Lot Width Minimum (feet) Front Yard Corner Side Yard (Feet) Side Interior Rear Yard Front Yard (Feet) Side Interior Side Yard (Feet) Sid	Access Height Max. Greet Height Max.	Racess Height Max. Geet Lot Size Min (s.f.) Lot Size Min (s.f.) Lot Size Min (s.f.) Lot Size Min (s.f.) Minimum (feet) Front Yard (Feet) Side Interior (Feet) Rear Yard (Feet) (Alley) Unit (sq. feet) Ontario Accessory Side/Rear Yard (Feet) (Alley) Unit (sq. feet) Ontario Ontario

Definitions:

Floor area ratio = total floor area of principal and accessory structure in direct ratio to the gross area of the lot

Notes

65 ft. if structure is designed for multiple residents

On interior lots, there must be at least 15 feet between dwellings with a minimum of 5 feet from the lot line

The buildable principal structure area must not be less than 32 feet in width, exclusive of setbacks

When a commercial building shares a common boundary with a residential use property, a side vard set back of 10 feet is required

The building height limits established herein for districts shall not apply to the following: belfries; chimneys or flues; church spires; cooling towers; cupolas and domes which do not contain useable space; elevator penthouses; flag poles; monuments; parapet walls extending not more than 3 feet above the limiting height of the building

f The following shall not be considered as encroachment on required yard setbacks:

- (1) Flues, belt courses, leaders, sills, pilasters, limtels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two feet into the required yard
- (2) Ground level patio, i.e., patio that is flush with the ground
- (3) In rear yards, recreational and laundry drying equipment, arbors and trellises, detached outdoor living rooms, and air conditioning or heating equipment to a point not less than ten feet from the rear lot line
- (4) A one-story enclosed entrance for a detached one-family, duplex, or townhouse dwelling may extend into the front yard setback not exceeding four feet

Except private garages are allowed to be up to 15 feet in height

WSB assisted in review of the dimensional standards for the city's Commercial zoning districts.

Suggestions for updated lot sizes, building heights, and setbacks following conversation at the September Planning Commission Meeting.

Red/orange underline: New text

Blue strikethrough: Current requirements, to be removed



No, Osseo isn't going to host Burning Man...but it is an example of a well-regulated interim use with minimal long-term impacts on its surroundings.

Purpose

To allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in the Comprehensive Plan; and

To allow a use that is **presently** acceptable but that, with anticipated development, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.

To allow a use which is **reflective of anticipated long range change** to
an area and which is in compliance
with the comprehensive plan
provided that said use maintains
harmony and compatibility with
surrounding uses and is in keeping
with the architectural character and
design standards of existing uses and
development.

All text is new

Bold: Emphasis added

Procedure & Issuance Standards

Application, public hearing, notice and procedure

- ...Procedure requirements for interim use permits shall be the same as those for conditional use permits
- In addition, applications shall include a signed statement agreeing:
 - That the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit;
 - That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
 - That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.

General issuance standards

- Council shall issue such interim use permit only if it finds ... that:
 - the interim use permit ... will terminate before any adverse impacts are felt upon adjacent properties;
 - The use will terminate upon a date or event that can be identified with certainty. Interim use permits may not be granted for a period greater than five (5) years;
 - There is adequate assurance that the property will be left in suitable condition after the use is terminated:
 - By agreement, the use will not impose additional costs on the public if it is necessary for the public to take the property in the future

All text is new

Bold: Emphasis added

Security deposit & termination

Security Deposit

Security deposits shall be provided as required by the City.



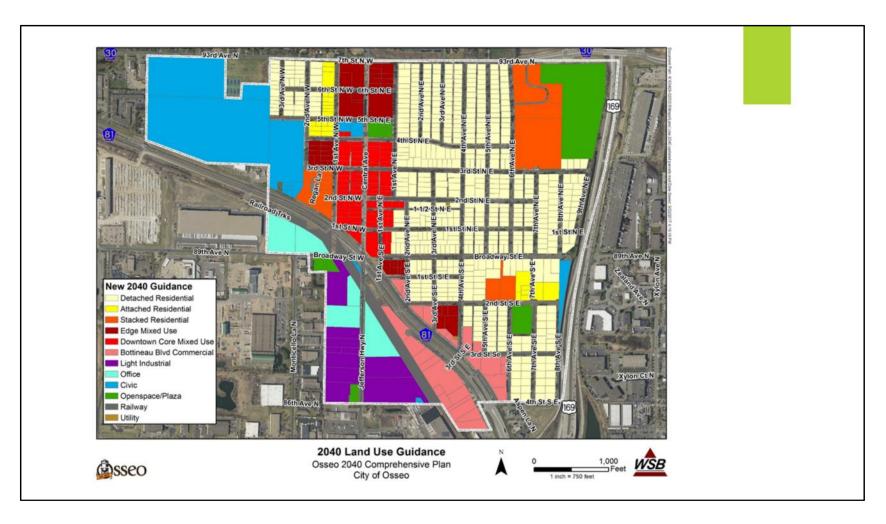
Termination

- An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:
 - ▶ The date stated in the permit; or
 - Upon violation of conditions under which the permit was issued

All text is new

Shipping container shopping malls are unlikely, but similarly illustrate an interim use that could be discontinued with minimal impact to the property.

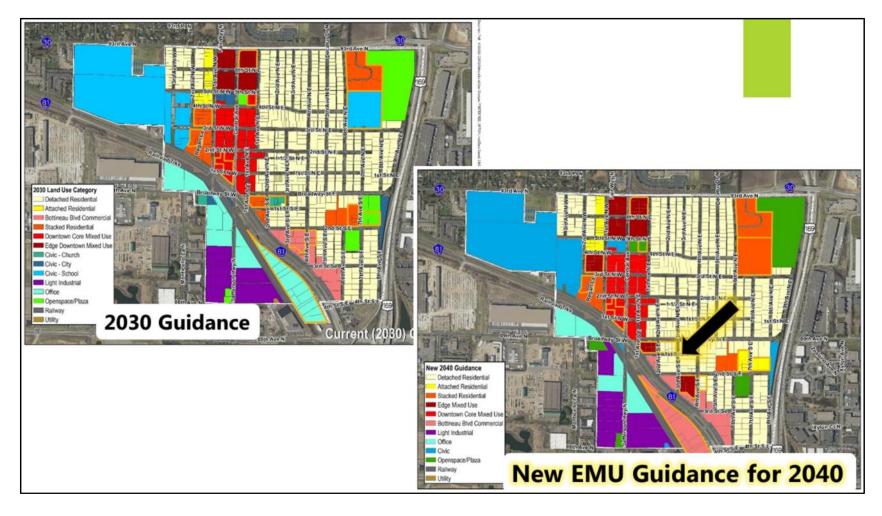




Dark red/maroon areas are guided for Edge Mixed Use.

The block bounded by 1st & 2nd Aves NW & 3rd & 4th Streets NW—near Osseo Senior High—is not expected to redevelop before 2030. Rezoning is not proposed at this time.

If the EMX Zoning district is created, other areas guided for EMX land use could be considered for rezoning in 2020. As it is an amendment to the Zoning Map (Appendix D), the rezoning process requires a public hearing and 1st and 2nd readings by the City Council.



Two areas along County Road 81 are re-guided for EMU in the 2040 Land Use Plan.

Areas guided for Edge Mixed Use are primarily along the proposed Crystal Lake Regional Trail (County Road 81) and planned multimodal trail along County Road 30/93rd Avenue connecting Osseo to the 93rd Avenue LRT station in Brooklyn Park.

Intent

- The intent of this district is to accommodate uses that are predominantly residential in nature and mixed-use buildings with neighborhood-serving retail, entertainment, civic, institutional, and office uses in key ground-floor locations and residential uses between and above the nonresidential space.
- ▶ The ground level shall be **pedestrian-oriented** and shall promote the health and well-being of residents by encouraging physical activity, alternative transportation, and social interaction.
- Development in the district shall facilitate transition between commercial areas and nearby neighborhoods.

All text is new

Colors/bold: Emphasis added

Permitted Uses

- All permitted uses in the Central Business District (CBD) ... within a mixed-use building ... not exceed[ing] ... the ground floor.
 - ► Commercial establishments. Not limited to the following:
 - Retail establishments such as grocery, hardware, drug, clothing, appliances, furniture stores, and restaurants:
 - Personal services such as laundry, barber, shoe repair, beauty salon, and photography studio;
 - Professional services such as medical clinics, dental clinics, law offices, and accounting offices;
 - Finance, insurance, and real estate services:
 - Figure 1 General commercial office space; and
 - Repair services such as jewelry, radio, and television repair shops (not auto repair).
 - Public and semi-public facilities serving all or portions of the city, such as municipal offices, library, and post office; ...

- All Permitted Uses in the High Density Residential District (R-2).
 - Multiple-family dwellings of three or more dwelling units per structure; and
 - Customary accessory uses incidental to the permitted residential uses such as private garages and private recreational facilities such as swimming pools and tennis courts.

All text is new

Colors/bold: Emphasis added

Italics: Duplication of content from other sections of the Zoning Ordinance

Conditional Uses

- Permitted uses in the Central Business District (CBD) occupying more than the gross floor area of the ground floor when within a mixed use building;
- Conditional uses in the Central Business District (CBD) with the exception of businesses intending to sell or serve liquor as part of regular business and Artisan manufacturing businesses;
- Fun fact: Conditional Uses in the R-2 district are also Conditional Uses in the CBD



All text is new

Colors/bold: Emphasis added

The Planning Commission considered, and recommended against, prohibiting alcohol sales/service & artisan manufacturing as Conditional Uses in the EMX diststrict.



Rather than develop specific detailed guidelines for development, the ordinance refers to the existing Architectural Design Guidelines

All text is new

Site Performance Standards

- Fencing as in R2 Distric
- Landscaping as in CBD

Off-street Motor Vehicle Parking

- In accordance with Appendix B: Off-Street Parking Space Requirements—except:
- One off-street parking space must be provided for each dwelling unit.
 - > Other districts:
 - > 1.75 spaces / multi-family unit
 - > 1 space / 55+ unit
- No off-street parking is required for non-residential uses in the district unless such uses exceed 3,000 square feet of gross floor area in which case off-street parking must be provided for the floor area in excess of 3,000 square feet.
- Off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to not be visible from public streets or residential zoning districts.

All text is new

Colors/bold: Emphasis added

Italics: Duplication of content from other sections of the Zoning Ordinance



- Bicycle Parking Standards. Each required bicycle parking space must be accessible without moving another bicycle [or] obstructing a walkway. Bicycle racks shall be permanently installed to the manufacturer's specifications. In addition:
- Bicycle parking facilities shall meet the following requirements:
 - Securely anchored to a hard, durable surface.
 - Located within 50 feet of the main building entrance.
 - Designed to provide direct access to a public right-of-way.
 - Dispersed for multiple entrances.
 - In a location that is visible to building occupants or from the main parking area.
 - Designed not to impede pedestrians along sidewalks or public rights-of-way.
 - Separated from motor vehicle parking areas by curbing or other similar physical barriers.
- Property owners are encouraged to conform to the Association of Pedestrian and Bicycle Professionals (APBP) Guidelines, copies of which are available at City Hall.
- The public right-of-way may be utilized for bicycle parking [if] approved by the Public Works Director.

All text is new

Colors/bold: Emphasis added

Bicycle Parking

- Quantity of Spaces
- The quantity of required bicycle parking spaces shall be as described in this subsection. In no case shall fewer than two (2) spaces be required.
 - Unless otherwise specified, the number of bicycle parking spaces shall be at least 10% of the minimum required motor vehicle parking for the use, up to 30 bicycle parking spaces.
 - Multifamily residential development with 4 or more units shall provide 1 space per unit.



- Covered or enclosed bicycle parking. A minimum of 50% of the bicycle spaces shall be covered and/or enclosed (in lockers or a secure room) in any of the following situations:
 - When 10% or more of automobile parking is covered.
 - ▶ If more than 10 bicycle parking spaces are required.

All text is new Colors/bold: Emphasis added

Council should discuss whether 1 bicycle parking space per 1 multi-family unit is appropriate. Hennepin County's Bicycle/Pedestrian Planning Team recommended this number in light of units that may have more than one resident (including families), as well as visitor parking.

The Planning Commission discussed whether to require covered bicycle parking for apartments. Commission members felt that property owners might choose to provide covered bicycle parking, but requiring it would be an overreach. The Commission also discussed offering an incentive to provide covered bicycle parking, e.g., reducing the number of other required parking spots in exchange for providing covered bicycle parking.

As a reminder, the areas guided for EMU are in proximity to the planned Crystal Lake Regional Trail (along County Road 81) and amulti-modal trail connecting to the 93rd Avenue Blue Line LRT station in Brooklyn Park.



The Comprehensive Plan calls for Osseo to address solar energy in the zoning ordinance.

The model ordinance provided by WSB also has sections on Geothermal Heat Pumps and Wind Energy Systems. These sections are included for Planning Commission review.

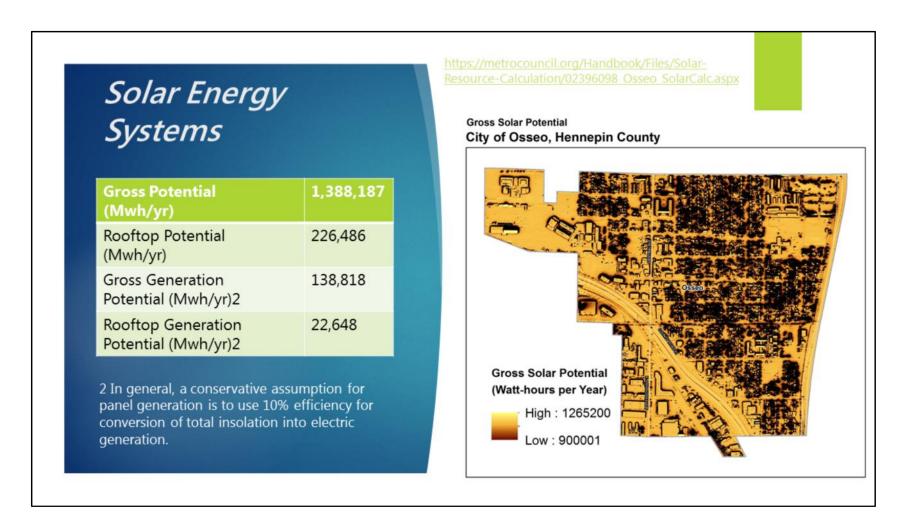
Purpose

The purpose of this Section is to:

- Accommodate alternative energy sources by creating a clear regulatory path for approving alternative energy systems.
- Create a livable community where development may incorporate resilient design elements such as resource and energy conservation and use of renewable energy.
- Protect and enhance air quality and decrease use of fossil fuels.
- Accommodate alternative energy development in locations where the technology is viable and environmental, economic, and social impacts can be mitigated.
- Encourage development by establishing reasonable requirements for performance, safety, design, and aesthetics of alternative energy systems.

All text is new

Colors/bold: Emphasis added



Solar energy analysis from the Metropolitan Council's Local Planning Handbook

https://metrocouncil.org/Handbook/Files/Solar-Resource-Calculation/02396098 Osseo SolarCalc.aspx

Solar Energy Systems.

permitted accessory use in all zoning districts

Height

- Roof mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district.
- Ground mounted solar energy systems shall not exceed fifteen (15) feet in height.
- Roof mounted solar collectors may be flush mounted or bracket mounted. Bracket mounted collectors shall be permitted only when a determination is made by the City Building Official that the underlying roof structure will support apparatus,

Location & Setbacks

- In residential zoning districts, ground mounted solar energy systems shall be limited to the rear yard.
- In nonresidential districts, ground mounted solar energy systems may be permitted in front yards, side yards adjacent to public rights-of-way, and rear yards.
- Shall comply with Accessory Structure Setbacks. Roof mounted setbacks shall not extend beyond the building perimeter.

All text is new

Solar Energy Systems.

permitted accessory use in all zoning districts

Screening

Solar energy systems shall be screened from view to the extent possible without impacting their function

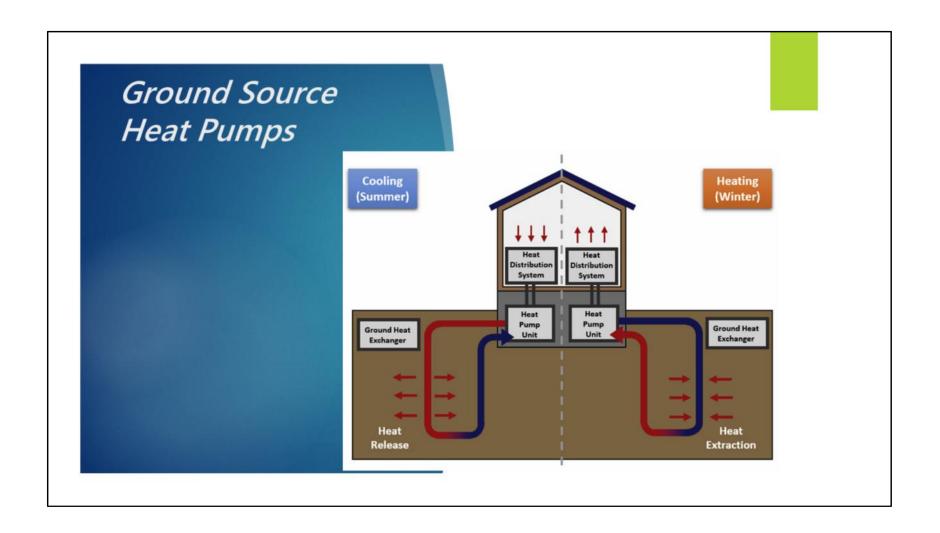
Maximum Area

Ground mounted solar energy systems shall be limited in size to no more than twenty-five (25) percent of the rear yard.

Abandonment

If a solar energy system remains nonfunctional or inoperative for a continuous period of one (1) year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including transmission equipment.

All text is new



Ground Source Heat Pumps.

permitted accessory use in all zoning districts

System Requirements

- Only closed loop ground source heat pump systems utilizing heat transfer fluids as defined in this Section are permitted. Open loop ground source heat pump systems are not permitted.
- Ground source heat pump systems in public waters may be permitted as a Conditional Use ... subject to the following:
 - Approval from the Minnesota Department of Natural Resources.
 - Written consent of all property owners and/or approval by an association in accordance with its adopted bylaws.
 - Demonstrated compliance with applicable City permit requirements.
- Ground source heat pump systems in water bodies owned or managed by the City are not permitted.

Setbacks

- All components of ground source heat pump systems including pumps, borings and loops shall be set back at least five (5) feet from side, front, and rear lot lines.
- Above ground equipment associated with ground source heat pumps shall not be installed in the front yard of any lot or the side yard of a corner lot adjacent to a public rightof-way and shall meet all required setbacks for the applicable zoning district.

All text is new

Bold/color: Emphasis added

Ground Source Heat Pumps.

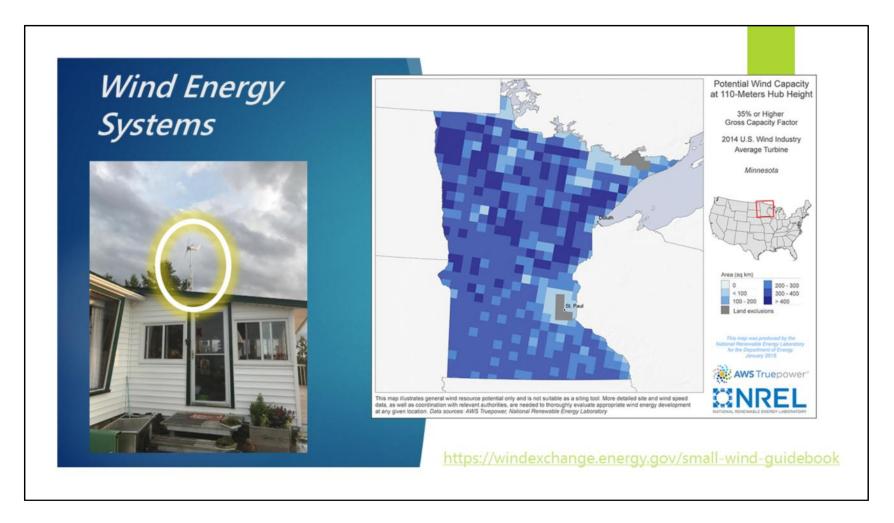
permitted accessory use in all zoning districts

Abandonment

- If a ground source heat pump system remains nonfunctional or inoperative for a continuous period of one (1) year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained in accordance with the following:
- 1. The heat pump and any external mechanical equipment shall be removed.
- 2. Pipes or coils below the land surface shall be filled with grout to displace the heat transfer fluid. The heat transfer fluid shall be captured and disposed of in accordance with applicable regulations. The top of the pipe, coil or boring shall be uncovered and grouted.
- 3. Lake ground source heat pump systems shall be completely removed from the bottom of the body of water.

All text is new

Bold/color: Emphasis added



The Twin Cities Metro, including Osseo, may not be an ideal location for Wind Energy Systems.

Wind Energy Systems

permitted accessory use in all zoning districts

General Standards

- No more than one (1) wind energy system per parcel
- Set back from property lines a distance equal to the highest possible extension of the system
- No part of a rotor blade shall be located within 30 feet of the ground and within 20 feet of the nearest tree or structure
- A yearly certificate of inspection and maintenance ... from a qualified engineer

District Standards

- Residential District Standards.
 - All wind turbine systems shall be roof mounted. Ground mounted systems are not permitted.
 - Wind energy systems shall not extend more than 6 feet above the highest point of the roof.
- Mixed-Use & Commercial District Standards.
 - Systems shall conform to the maximum height requirements for communication structures.
 - Ground mounted systems shall not be installed adjacent to a public right-of-way

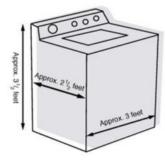
All text is new

Bold/color: Emphasis added

Maximum height requirement for communication structures is 35'







Approx. 1 cubic yard

- Land alteration restricted; exceptions. Land alteration is the process of changing the existing landscape by excavating, filling, or grading. Subject to the exceptions set forth below, no land shall be altered, excavated, filled, or graded and no vegetation shall be removed without first obtaining a permit from the city. The following exceptions shall be allowed:
- A fill less than one foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than three feet in depth, not intended to support structures, which does not exceed 25 50-cubic yards and does not obstruct a drainage course; and other exceptions as are listed the State Building Code;

Bold: Emphasis added

Blue strikethrough: Current requirements, to be removed (or modified)

§ 153.057 LANDSCAPING. R-1 & R-2 residential districts

- Update residential landscaping requirements so that they no are no longer limited to "newly platted" lots
- Differentiate between types/intensities of residential uses

- ► The minimum number of trees meeting the Minimum Size requirements in Subsection 6) shall be as follows:
 - Single and Two Family Uses. A minimum of two trees per parcel.
 - Townhouse and Multiple Family Uses of 4 or fewer units. A minimum of one tree per dwelling unit.
 - Multiple Family Uses of 5 or more units. Whichever is greater: one tree per 1,000 square feet of gross building floor area or one tree per fifty lineal feet of site perimeter.

Selected text is new.

Bold/color: Emphasis added

§ 153.058 FENCING.

- Remove requirement for permit application for fences
 '6' tall, like Maple Grove, Minneapolis, and many other cities
- Clarify allowed materials
- Incorporate restrictions on "hazardous" fence materials from the Nuisance ordinance
- Clarify height bonus for "see through" fencing

- No fence exceeding six feet in height shall be constructed without a building permit.
- Fences may be erected, placed or maintained along or adjacent to a lot line. The fence owner shall be responsible for properly locating all property lines before construction of any fence. Boundary line fences shall be located entirely upon the private property of the party constructing the fence unless the owner of the property of the adjoining property agrees, in writing, that the fence may be erected on the division line of the respective properties. The persons, firms, or corporations constructing or causing the construction of the fence shall be responsible for verifying the location of their property line and for maintaining that part of their property between fence and property line. City staff will require any applicant for a fence permit to establish the boundary lines of his or her property by a survey thereof to be made by any registered land surveyor or by showing the stake markers of the surveyed lot.

Green (bullet points): Narrative explaining intent

Red/orange underline: New text



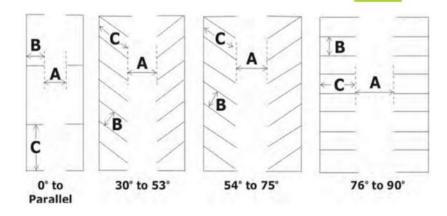
- (A) Conduct of the home occupation does not result in any alterations to the exterior of the residence or involve interior or exterior construction features not customarily found in dwellings;
- (J) No accessory building may be used for operations, display of goods, or the storage of equipment or materials used in the home occupation A home occupation may be located within the dwelling, an accessory building, or both, provided that the total area of the home occupation is not greater than 50% of the finished floor area of the dwelling:
- ► Home occupations shall not operate between 10:00 pm and 7:00 am.

Green (bullet points): Narrative explaining intent

Red/orange underline: New text

Blue strikethrough: Current requirements, to be removed





Parking Space and Aisle Dimensions								
Angle of Parking (degrees)	One-Way Maneuvering Aisle Width (Feet) "A"	Two-Way Maneuvering Aisle Width (Feet) "A"	Parking Stall Width (Feet) "B"			Parking Stall Length (Feet) "C"		
			Compact Size	Low Turnover	Full Size	Compact Size	Low Turnover	Full Size
0° - Parallel	12	20	8	8.5	9	18	22	22
30°-53°	14	20	8	8.5	9	16	20	20
54°-75°	18	22	8	8.5	9	16	20	20
76°- 90°	22	24	8	8.5	9	16	18	18

§ 153.078 PARKING SPACES: DESIGN AND MAINTENANCE.

Access

Access and parking areas shall be designed so as to provide an adequate means of access to a public alley or street. The driveway shall be limited so as to cause the least interference with traffic movement. All public parking areas shall have access off driveways and not directly off a public street. Traffic shall be channeled and controlled in a manner that will avoid traffic hazards including obstacles to safe pedestrian access.

Calculating Space

All square-footage-based parking standards shall be computed on the basis of gross floor area Up to 15 percent ... may be excluded ... if the area is used for storage, loading, unloading, or for mechanical equipment. When the determining of the number of required off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space. ... in the case of one or two family dwellings [only] driveways may be used in calculating the amount of off-street parking.

Surfacing

...parking space[s] and driveways shall be surfaced with an impervious material to control dust and drainage ... except parking areas for less than three vehicles. This requirement also applies to open sales lots and residential driveways.

(1) Within all zoning district, parking lots and driveways shall be paved and permanently maintained with asphalt, concrete, or approved paving units.

(2) Parking lots and driveways may be constructed with the use of other all-weather surfacing as determined to be appropriate by the City Engineer...

Red/orange underline: New text

§ 153.078 PARKING SPACES: DESIGN AND MAINTENANCE.

Striping & identification

Except for parking spaces for oneand two-family residences, parking spaces shall be clearly outlined with four-inch wide lines painted on the parking surface. The striping shall be continuously maintained in a clear and visible manner in compliance with the approved parking plans.

Permanent spaces

Each parking space shall be permanently available, marked, and maintained for parking purposes for the use which it is intended to serve.

Spaces for people with disabilities

Parking spaces serving people with disabilities shall be provided in compliance with all applicable state and federal requirements. If practicable, spaces for people with disabilities shall be located so they provide easy access from the closest parking area to the major entrance of the use for which they are provided.

Red/orange underline: New text

Existing ordinance 153.078 (A) includes the requirement, "All outside parking spaces shall be clearly marked."

Where do we go from here?

- August 19 Planning Commission
 - ► Provide initial input on Code Updates
- September 16 Planning Commission
 - ► Review initial information on Code Updates
- October 21 Planning Commission
 - ▶ Public Hearing on Code Updates
- December 9 City Council
 - Discussion of Code Updates

- Future work in 2020
 - ▶ 1st Reading January 13?
 - ▶ 2nd reading & adoption January 27?
 - Rezone properties as needed/appropriate
 - Public Hearing Required, followed by 1st & 2nd Reading of Amendment to Zoning Ordinance Appendix D: Zoning Map
- Planned Unit Developments, Use Tables & Accessory Uses, and Subdivision Regulations



Memorandum

To: Nancy Abts, Osseo Planner

From: Molly Just, AICP

Date: September 20, 2019

Re: Updated Memo - Task 8 - Review of Dimensional Requirements

The City of Osseo has requested that WSB review certain dimensional standards within the City's Zoning Ordinance. To that end, staff provided specific questions to be addressed with our review. What follows is an updated memo reflecting our responses to your most recent requests. This memo is separated by district and the district intent is included for context.

R-1

Intent. To recognize fully or partially developed one- and two-family residential areas including supporting public and semi-public facilities, to provide for future development of a similar nature, and to protect the desired low intensity living environment from encroachment by conflicting land use.

Impervious Surface. The existing maximum is generous. The norm is more like 30-40% but if there are no environmental or flooding issues, perhaps keep it as is. If most lots aren't at 50% impervious, how would a robust residential market that might encourage tear downs or large expansions impact the goals of the community?

R-2

Intent. To recognize the demand for apartment, condominium, and multiple-family dwellings; to provide for these apartments upon fairly sizable tracts of land, thereby allowing increased design flexibility and a more compatible development pattern; and to permit these apartments at densities high enough to allow high quality development yet low enough to provide a desirable living environment for residents.

Height. Staff suggests 3-stories/40-feet max.

Land per bedroom. I suggest that the intent was for this to be floor area per bedroom and not land. Peer communities treat the per bedroom square footage requirement this way. An alternative would be land area per unit, such as 1,000 sqf per unit or 1,500 sqf per unit. What do you want for Osseo?

CBD

Intent. The intent of this district is to accommodate central business type uses that include jointuse parking areas and business uses primarily oriented to the walking public.

Height. Staff will suggest 4-stories/50-feet max.

Setback. Your WSB staff team has discussed the idea of a 10-foot rear setback for lots with no alley. Osseo has been successful at working with developers to deliver projects that provide context sensitive solutions. In this light, we suggest zero rear setback.

C2

Intent. The intent of this district is to accommodate service type business uses primarily oriented to the driving public with needed parking facilities provided on site by the owner.

Lot Size. Staff will suggest reducing the lot size requirement to match that for the CBD.

Lot Width. Staff will suggest reducing the lot width requirement to match that for the CBD.

Height. I don't see an issue with the 35 foot height limitation here. Please advise of any known issues.

Setbacks. Possibly reduce the required setback to 20 feet front and 10 feet for corner side yard.

Accessory Structure Setbacks. Examples from peer communities have been provided. Typically, accessory structure setbacks are less than that for primary structures, sometimes half the setback. I suggest the same in this district.

M

Intent. The intent of this district is to provide land in proximity to major thoroughfares for the development of certain manufacturing and industrial activities that will strengthen the local employment opportunity and tax base in the city.

Lot Size. The existing lots are quite large so I'm not sure what are the size and width concerns. Height. Consider if 40 feet is enough height. I would suggest 65 feet and prohibit warehousing and similar uses that do not achieve the intent of the district.

Impervious Surface. If the policy goal of the City is consistent with the existing preamble for the district, then I advise maintaining the current language.

Setbacks. Staff will suggest reducing the setback requirements to zero. Accessory structure setbacks

Accessory Structure Setbacks. Examples from peer communities have been provided. Typically, accessory structure setbacks are less than that for primary structures, sometimes half the setback. I suggest the same in this district.

Please let me know if we may be of additional assistance with this matter.

Sincerely,

WSB

Mally lust AICD



Memorandum

To: Nancy Abts, Osseo Planner

From: Molly Just, AICP

Date: September 6, 2019

Re: Task 1 - Review of Public Institution Zoning District

Overview of Task 1 – Review of Pubic Institution Zoning District (PI District). The City of Osseo has requested that WSB review the City's Public Institution District for clarity and breadth of legislative intent and adequacy of district standards relative to the breadth of standards found in other districts in the zoning code and the PI Districts of peer communities.

Finding. PI Districts are often created after public facilities are in place and the varying nature of activities necessary to carry out public services means that one set of dimensional standards is unlikely to work for all public service facilities. Additionally, it is common for cities to move or expand such facilities to achieve a public purpose, and libraries, fire houses, and water towers are located based on the needs of the community and not the confines of Euclidean zoning. Finally, not all communities have formal PI Districts and Osseo is not unique in the intent and breadth of its PI District. I therefore find the intent and dimensional requirements adequate.

Recommendation. I recommend that it is unnecessary to add lot size and/ or dimensional requirements to the PI District and find that the intent statement is adequate, relative to that for other districts in the Osseo Zoning Ordinance, and that of peer cities. You may want to review the district to determine whether there are any definitions needed in order to support the language in the PI District.

Attached are materials that include a tabular summary of the PI Districts of peer communities and copies of the full district from the code of each community. Please let us know if we can be of further help to you in this matter.

Sincerely,

Molly (

WSB

Molly Just AICP

Attachments: Tabular Summary of Peer Communities, District Language from Peer Communities.

City Name	New Hope	
District Name	Governmental, Park, and Open Space Zoning District	
Preamble	The purpose of the GPO - governmental, park and open space district is to provide for the establishment of governmental, civic uses, and recreational activities which serve the residents from the entire community or subregion. The district is designed to: (1) Create a unified district for governmental operations and civic uses; (2) Encourage a sense of activity and liveliness among public open spaces and sidewalks; (3) Provide public gathering spaces and green spaces.	
Permitted uses	(1)Municipal government and utility buildings. Municipal government, publicly regulated communications, and public utility buildings and structures necessary for the health, safety and general welfare of the community. (2)Public parks and playgrounds. (3)Municipal recreational facilities including swimming pool, golf course and ice arenas. (4)Municipal water towers.	
Conditional uses		
Dimensional standards	No Minimum Lot area, No Minimum Lot Width, 0 Front, Rear, Side Setbacks	
Other standards	Specific performance standards for Administrative Uses – which are Farmer's Markets, festivals, and open/outdoor sales, seasonal products	

City Name	Crystal
District Name	Does not have a stand alone Institutional or Public use district

City Name	Maple Grove
District Name	Does not have a stand alone Institutional or Public use district

City Name	Brooklyn Park		
District Name	Public Institution Zoning District		
Preamble	The Public Institution District (PI) is intended to provide for a district for		
	public buildings, uses and needs that otherwise may not fit into other zoning		
	districts because of their specialized land use needs and public purpose.		
Permitted uses	(A) Schools and daycares. Includes public and private primary and		
	secondary schools, pre- schools, and daycares, subject to Site Plan Review		
	requirements of § 152.033; and public or private post-secondary institutions		
	like colleges, universities, junior colleges, and trade schools.		
	(B) Government buildings. Including fire and police stations, government		
	office buildings, maintenance buildings, recreation facilities, libraries, water		
	towers or purification plants and the like.		
	(C) Religious institutions.		
	(D) Non-profit community agencies, recreation centers, or youth centers.		
	(E) Hospitals.		
Conditional uses	(A) Telecommunication towers as regulated by §§ 152.090 through		
	152.096.		

	(B) Outdoor storage of equipment, landscaping materials, etc. when accessory to a government building or maintenance facility.
Dimensional standards	The PI district has no minimum lot area or lot width requirements. Setback requirements are as follows: 10 ft from public rights-of-way, 10 ft from side property lines, 10 ft from rear property lines, and 50 ft when adjoining residential areas. Site within the PI district are required to be business district performance standards and landscaping standards. A 60 ft maximum height is required in the PI district.
Other standards	Lists permitted accessory uses which include limited retail, restaurant, assembly halls, and daycare.

City Name	Robbinsdale
District Name	Public Facilities Zoning District
Preamble	A district to provide for public buildings, facilities, land areas, waterways and water areas which are owned, controlled, regulated, used or proposed to be
	used by the city of Robbinsdale or other governmental body. The district will also provide for telecommunications towers and facilities.
Permitted uses	(a) Public parks, playgrounds, and athletic fields.(b) Municipal utilities including water storage, storm water ponding, treatment and sewer, water and pumping facilities.(c) Municipal buildings and structures, provided there is adequate screening from adjacent uses.
Conditional uses	schools, recreation and community centers meeting performance standards, utilities, wind energy systems exceeding 20 ft, ground mounted-solar, telecommunications towers, outdoor storage, and parking area exceeding the requisite requirement by 125%.
Dimensional standards	States that minimum lot area, lot width, and setbacks are established as equivalent to similar uses.
Other standards	

City Name	Hopkins	
District Name	Institutional Zoning District	
Preamble	None	
Permitted uses	(a) Single-Family and two-family Residences	
Conditional uses	(a) Schools and structures incidental thereto,	
	(b) religious institutions and structures incidental thereto	
Dimensional standards	A setback of 35 ft is require from all property lines. The lot minimum is	
	20,000 sq. ft., lot width is 100 ft, building coverage is 35%, and max height is	
	35 ft.	
Other standards	Compatibility and performance standards for new institutional uses or	
	parking expansions with regard to existing residences in proximity.	

OSSEO PLANNING COMMISSION MINUTES REGULAR MEETING September 16, 2019

1. CALL TO ORDER

The regular meeting of the Osseo Planning Commission was called to order by Chair Plzak at 6:00 pm, Monday, September 16, 2019.

•••

2. ROLL CALL

Present: Commission members Dee Bonn, Deanna Burke, Michael Olkives, Dan Penny, Ashlee Thostenson, Alden Webster, and Chair Barbara Plzak

Absent: None.

Others present: James Kelly, Preston Kroska, Harold E. Johnson, and City Planner Nancy Abts.

...

6. PUBLIC COMMENTS

...Mr. Kelly commented on the preliminary zoning code update information. He expressed concern with the current minimum lot size in the R-1 District and the number of existing nonconforming lots under this requirement.

...

9. NEW BUSINESS

A. Review Preliminary Zoning Code Update Information

Abts explained under Minnesota State Statute, a City's zoning ordinance should "carry out the policies and goals of the land use plan" (MN Statute 462.357 Subd. 2). As such, all cities that update their land use plans must then follow up with necessary revisions to the zoning ordinance to bring zoning controls into alignment with the goals and policies of the adopted comprehensive plan. Osseo began this process last month in coordination with planning consultants from WSB & Associates. Staff reviewed the proposed updates that would be made to code further with the Commission.

Bonn requested comment on the small lot size concern that was raised by Mr. Kelly. Abts explained approximately one-third of the residential lots in Osseo were a non-conforming size.

Olkives suggested the minimum lot size standard be reduced if one-third of the homes in the city were on a lot that was smaller than 8,500 square feet.

Further discussion ensued regarding setbacks, minimum lot sizes and what percentage of a lot could be covered with hard surface. The Commission supported exploring future administrative options to increase impervious area on residential lots.

Abts stated staff would like to see the maximum height for R-2 buildings lowered to 55 feet or four stories.

Bonn feared that this may limit future development in Osseo.

Burke and Olkives agreed.

Plzak indicated she would like to see downtown Osseo remain one and two stories in order to maintain the unique characteristics of this historical district.

Thostenson, Bonn and Penny agreed.

Olkives stated he could support the downtown district building height moving from 35 to 45 feet.

Abts discussed the minimum lot sizes and proposed setbacks with the Commission.

Olkives commented he would also support reducing the minimum square footage for Highway Commercial lots from 15,000 to 7,200.

Plzak indicated she would also support reduced setbacks for all sides of a lot.

Abts discussed the recommendations for the Industrial district.

Plzak questioned why WSB was recommending no warehousing in this district. Abts reported may have to do with jobs and noted warehousing was not known for creating high paying jobs.

Bonn supported Osseo having more manufacturing than warehousing.

Olkives commented he could support raising building height in the Industrial district.

Burke indicated she did not support limiting manufacturing companies from storing materials onsite.

Plzak agreed with this recommendation and suggested warehousing be allowed as an accessory use to a business, but not be allowed as a standalone use.

Abts commented on a new edge mixed-use zoning district being proposed by staff. The Commission responded favorably to the preliminary information.

Burke questioned where this zoning district would be located. Abts reviewed the parcels being recommended for rezoning to mixed-use.

Plzak asked if the City would ever consider allowing a coffee shop in Celtic Crossing. Abts commented this would be easier for the City to consider if a mixed-use zoning district were created. It may be possible to rezone these properties to the new district.

The Commission supported the new edge mixed-use zoning district concept.

Preston Kroska, 601 Second Avenue NE, asked if the edge mixed-use zoning would be put into effect after a property sold. Plzak commented the Commission was discussing this

new zoning district on a very preliminary basis and those things have yet to be determined. Abts commented on the grandfathering process the City has followed in the past for zoning districts that have changed.

Mr. Kroska questioned if any buildings in downtown Osseo had been designated as historical structures. Abts reported there were no locally-designated historic buildings.

OSSEO PLANNING COMMISSION MINUTES REGULAR MEETING October 21, 2019

1. CALL TO ORDER

The regular meeting of the Osseo Planning Commission was called to order by Chair Plzak at 6:00 pm, Monday, October 21, 2019.

2. ROLL CALL

Present: Commission members Dee Bonn, Deanna Burke, Ashlee Thostenson, Alden Webster, and Chair Barbara Plzak

Absent: Commission members Michael Olkives and Dan Penny.

Others present: City Planner Nancy Abts

3. APPROVAL OF AGENDA

A motion was made by Burke, seconded by Bonn, to approve the Agenda as presented. The motion carried 5-0.

4. APPROVAL OF MINUTES

A. Approve September 16, 2019, Minutes

A motion was made by Bonn, seconded by Webster, to approve the September 16, 2019, minutes. The motion carried 5-0.

5. PUBLIC COMMENTS

Chair Plzak advised this is the time for public comments for items that are not on the agenda for tonight's meeting.

James Kelly, 624 Third Avenue Northeast, explained he has spent some time reviewing the 2040 Comprehensive Plan. He stated it was his understanding the City was trying to get all generations living together. However, he feared that the City was segregating the seniors from families. He suggested senior housing be incorporated in to residential areas in order to allow families to better interact with seniors.

6. PUBLIC HEARINGS

A. Amend Zoning Code in accordance with 2040 Comprehensive Plan Update

Abts stated under Minnesota State Statute, a city's zoning ordinance should "carry out the policies and goals of the land use plan" (MN Statute 462.357 Subd. 2). As such, all cities that update their land use plans must then follow up with necessary revisions to the zoning ordinance to bring zoning controls into alignment with the goals and policies of the adopted comprehensive plan. Osseo began this process this summer in coordination with

planning consultants from WSB & Associates. Staff reviewed the proposed changes to the Zoning Code with the Commission in further detail and recommended approval.

Burke supported the Edge Mixed Use District having a small café that had the ability to serve wine.

Plzak agreed.

Bonn stated she could also support wine being served in this district, as well as artisan manufacturing uses.

Plzak commented favorably on the design review requirements and recommended these requests be reviewed on a case by case basis. She stated she encouraged staff to keep the ordinance reference to the city's architectural design guidelines to remain as is because she liked the unique structures in downtown Osseo.

Plzak asked if local businesses were requesting bicycle parking. Abts stated Rochon and 5 Central both provided bicycle parking. She noted going forward, the proposed ordinance would require new developments to have bicycle parking. The Planning Commission and City Council should discuss whether this ordinance should apply only to the Edge Mixed Use District or citywide.

Burke questioned why the City would require building owners to provide covered bicycle parking. She believed it was the responsibility of the bicycle owner to care for their bike. She explained both of her children were cyclists and both carried their bikes up to their units in order to store them in a secure area.

Thostenson agreed with this assessment stating she did not believe it should be the requirement of the property owner to provide covered bicycle parking.

Bonn stated the City had to think 20 years into the future and noted at that time there may be more bicycles on the street than cars and for this reason, developments should plan to have covered parking for bicycles.

Burke commented she opposed forcing this requirement onto developers. She supported the City suggesting developers provide this parking, but did not support it being a requirement.

Plzak recommended the language be rewritten regarding covered bicycle parking that this be a suggestion or incentive for developers and not a requirement.

Burke suggested the digging limit for excavation permits be set to twenty-five cubic yards.

Plzak agreed that a five cubic yard limit would be too low and she feared the City would be inundated with digging requests. She also recommended the limit be set at 25 cubic yards and no more than three feet deep. The Commission supported this recommendation.

Burke questioned how the hours of operation applied for home businesses.

Plzak suggested the hours of operation only apply to service-oriented home businesses. She also supported daycares with licenses on good standing being allowed to have the State required number of adults working within a home daycare. The Commission supported daycares or home occupations being allowed to use a garage or detached structure for business use.

A motion was made by Burke, seconded by Webster, to open the Public Hearing. The motion carried 5-0.

Harold Johnson, 12 Sixth Street NE - #106, stated he did not agree with the language regarding covered bicycle stalls for multi-family residential developments. He reported his building would be required to have 77 bike stalls, which was uncalled for. He recommended this language be reconsidered. He encouraged the Commission to consider having four-story buildings given the fact more and more developers were installing ground level parking ramps. He suggested retail businesses not be allowed to operate out of homes. He recommended the City greater define what is meant by a tree within City Code.

James Kelly, 624 Third Avenue NE, he encouraged the City to keep in mind that all rights within the Constitution have to remain intact and be respected for residents of Osseo. He commented on the requirements regarding non-conforming structures and requested the City reconsider the language. He stated he was able to do what he wanted on his land and recommended the City not make laws that impede residents' property rights.

A motion was made by Bonn, seconded by Burke, to close the public hearing at 6:27 p.m. The motion carried 5-0.

A motion was made by Burke, seconded by Webster, to recommend the City Council approve the proposed changes to the Zoning Ordinance as amended per Commission discussion. The motion carried 5-0.

- 7. OLD BUSINESS None
- 8. NEW BUSINESS None
- 9. REPORTS OR COMMENTS: Staff, Chair & Commission Members

Abts explained she would be meeting with Metro Transit on Tuesday, October 29th to discuss their long-range plan.

Thostenson stated she was looking forward to attending the Halloween event downtown Osseo on Saturday, October 26th with her son.

Webster encouraged residents to take in the youth sports at Osseo High School. He also stated for residents interested in serving the City on a board or commission, they should contact City Hall for further information.

Bonn indicated it was a challenge serving on the Planning Commission and noted she appreciated the input from her fellow Commissioners.

Burke agreed with this comment and stated she serves on the EDA as well. She thanked City Administrator Grams for sharing a short video on the City of Osseo produced by CCX Media.

10. ADJOURNMENT

A motion was made by Bonn, seconded by Webster, to adjourn the meeting at 7:32 pm. The motion carried 5-0.

Respectfully submitted,

Heidi Guenther
TimeSaver Off Site Secretarial, Inc.

Zoning and the Comprehensive Plan

Under Minnesota State Statute, a city's zoning ordinance should "carry out the policies and goals of the land use plan" (MN Statute 462.357 Subd. 2). The Metropolitan Council requires that official controls, such as zoning, "must not be in conflict" with the comprehensive plan or its subsequent updates. As such, all cities that update their land use plans must then follow up with necessary revisions to the zoning ordinance to bring zoning controls into alignment with the goals and policies of the adopted comprehensive plan.

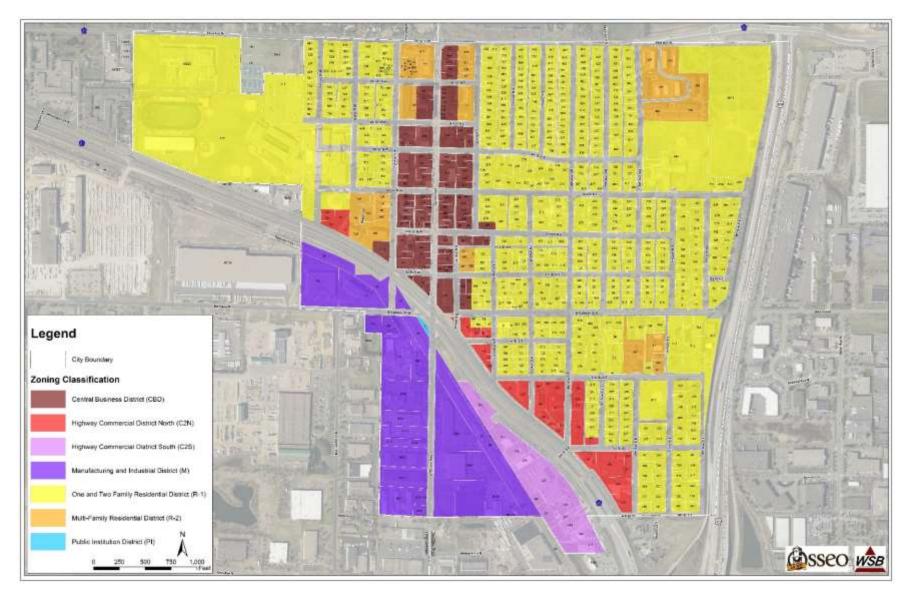
Osseo's current zoning map and zoning category descriptions are included here, followed by a discussion of the anticipated zoning and Code updates that may be necessary to bring the City's zoning code into harmony with the comprehensive plan.

TABLE 10-8 CURRENT ZONING DISTRICTS IN OSSEO

Zoning District	Description	Dimensional Standards
Public institution district, PI Corresponding Land Use: Institutional	Provide for public buildings, facilities, and land areas which are owned, controlled, regulated, used or proposed to be used by the city for the purposes of serving the residents and the community members of the city. Permitted uses: Municipal buildings and structures, Public parks, Off-street parking, Outdoor storage of equipment, Historical sites	N/A
One- and two-family residential district, R-1 Corresponding Land Use: Detached Residential, Attached Residential	Recognizes fully or partially developed one- and two-family residential areas including supporting public and semi-public facilities; protects the desired low intensity living environment from encroachment by conflicting land use. Permitted uses: One- and two-family detached dwellings, Home occupations, licensed day care	Building Height: 25 ft Minimum lot size: 8,250 – 10,000 sq ft Max impervious surface: 50%

High-density residential district, R-2 Corresponding Land Use: Attached Residential, Stacked Residential, Edge Mixed Use	Recognize the demand for apartment, condominium, and multiple-family dwellings; provides for these apartments upon fairly sizable tracts of land, thereby allowing increased design flexibility and a more compatible development pattern; permits these apartments at densities high enough to allow high quality development yet low enough to provide a desirable living environment for residents.	Building Height: 25-65 ft Minimum lot size: 21,780 sq ft Max impervious surface: 50%
Central business district, CBD Corresponding Land Use: Core Mixed Use, Edge Mixed Use, Stacked Residential,	The intent of this district is to accommodate central business type uses that include joint-use parking areas and business uses primarily oriented to the walking public. Permitted Uses: Commercial and retail establishments, personal and professional services, repair services, office space, apartments above street level	Building Height: 35 ft Minimum lot size: 7,200 sq ft Max impervious surface: 100%
Highway commercial district, C-2 Corresponding Land Use: Bottineau Boulevard Commercial, Office, Light Industrial	The intent of this district is to accommodate service type business uses primarily oriented to the driving public with needed parking facilities provided on site by the owner. Permitted Uses: Commercial establishments, uses allowed in CBD, auto accessory	Building Height: 35 ft Minimum lot size: 15,000 sq ft Max impervious surface: 60%
Manufacturing and industrial district, M Corresponding Land Use: Office, Light Industrial	The intent of this district is to provide land in proximity to major thoroughfares for the development of certain manufacturing and industrial activities that will strengthen the local employment opportunity and tax base in the city. Permitted Uses: Uses allowed in C-2, Fabricating, manufacturing, production, processing, and storage of material goods and products, Motor freight terminals; research; electrical	Building Height: 40 ft Minimum lot size: 20,000 sq ft Max impervious surface: N/A

FIGURE 10-2: OSSEO ZONING MAP (LAST UPDATED OCTOBER 2017)



Suggested Zoning Code Updates

Osseo's 2040 Land Use plan update will require some attention to the current zoning map and zoning ordinance, in order to make the City's zoning consistent with land use guidance. The following are identified as areas or inconsistencies that may require closer examination and eventual zoning updates in order to match the intent of the land use plan. This list of updates is also identified in the implementation matrix, under the Land Use section.

<u>Site-and Zone specific updates to be completed in the 9-month statutory period following Comprehensive Plan adoption</u>

- The City will consider developing a new zoning district or overlay that better addresses and implements Mixed Use guidance and applying that zoning district to properties guided Mixed Use. Properties that might be considered under this district include:
 - The 100 block of Broadway St E is currently zoned C-2 and R-1. The land use guidance calls for Edge Mixed Use. Appropriate rezoning might consist of R-2, CBD, or some combination thereof, or a new district or overlay.
 - A portion of the 200 block of 2nd St SE that is currently zoned C-2
 Highway Commercial is guided for Edge Mixed Use. Appropriate
 rezoning might consist of R-2, CBD, or some combination thereof,
 or a new district or overlay.
 - Residential areas west of 1st Avenue NW. Much of this area has been re-guided for Mixed Use or Attached Residential housing, but is currently zoned R-1. Appropriate rezoning might consist of R-2, CBD, or some combination thereof.
- Evaluate whether the Attached Residential use is supported by current zoning districts. Properties that might be considered under this guidance include:
 - Former elementary school site. Currently guided R-1 (One and two-family residential), this site could be re-zoned to reflect the higher intensity expectation of the Stacked Residential land use district. R-2 is the most likely option for rezoning.
 - The undeveloped area south of St. Paul's church. This area is guided for Attached Residential, but zoned R-1. Consider R-2 zoning to allow for attached housing.

General Zoning Code updates

The table below outlines the general zoning code evaluations and/or updates that may be considered as a direct result of the goals and intentions of this Plan. The table includes a rationale for each suggested zoning code action and a prospective timeline for action.

Table 10-9 Suggested general zoning code updates, including timeline for action

Possible Zoning Code Action	<u>Rationale</u>	Prospective Timeline/Sequence
Expand the Subdivision Ordinance	With at least one larger tract of developable land guided for higher-intensity residential uses, the City should consider reviewing and expanding its subdivision ordinance to facilitate the process and stated outcomes of a subdivision and/or PUD development.	This will occur prior to the redevelopment timeline for Site A identified in the Land Use Plan, and ideally within the next 5 years.
Evaluate the city's current Planned Unit Development (PUD) requirements	Following the adoption of this Plan, the City's current PUD requirements should be reviewed for their ability to achieve the desired outcomes identified in the Land Use Plan, particularly with respect to opportunity sites C and F identified in the Land Use Chapter.	This should occur prior to the 2030 redevelopment timeline for Sites C and F Identified in the Land Use Plan, and ideally within the next 5 years.
Evaluate existing dimensional requirements	Evaluation of the maximum height, minimum lot size and impervious area requirements, and setbacks for all zoning districts is needed to make certain that these requirements support the intent and densities of the land use guidance.	This should occur contemporaneously with evaluation of the Subdivision Ordinance, and ideally within the next 5 years.
Evaluate landscaping and buffer requirements	Evaluation of the city's landscaping and buffer requirements is needed to determine their ability to support quality open spaces and park-like amenities. Review the city's building material regulations to ensure they produce the desired effects discussed in the Land Use chapter.	This should occur contemporaneously with evaluation of the city's PUD requirements, and ideally within the next 5 years.
Evaluate parking requirements	Review of the minimum parking requirements established by the City Code and their effect on the desired land use patterns established in the plan is needed. Consider adding further incentives for privately-owned joint parking facilities to help achieve development patterns described in the plan.	This should occur contemporaneously with evaluation of the city's PUD requirements, and ideally within the next 5 years.

Possible Zoning Code Action	<u>Rationale</u>	Prospective Timeline/Sequence
Consider incentives for public amenities	Consideration should be given to establishing zoning incentives for provision of open space, sidewalks and trails, and park-like amenities, especially as part of high-density developments and in Gateway areas.	This should occur contemporaneously with evaluation of the city's PUD requirements, and ideally within the next 5 years.
Review dimensional standards for Public Institutional District	Consideration should be given to establishing dimensional standards for the city's Public Institution District to ensure properties are consistent with their surrounding land uses and land use guidance	This should be completed in the 9-month statutory period following Comprehensive Plan adoption.
Review Home Occupation requirements	Review of the city's Home Occupations requirements is needed to ensure they reflect current work styles and desired environments while preserving the city's traditional residential environments.	This should be completed in the 9-month statutory period following Comprehensive Plan adoption.
Allow solar energy systems	The City may explore allowances for rooftop solar energy systems in the Zoning Ordinance as a means of offsetting energy production costs through local alternative energy sources.	This should occur contemporaneously with evaluation of the Subdivision Ordinance, and ideally within the next 5 years.
Accessory Dwelling Unit (ADU) feasibility study	Evaluation of the feasibility of allowing Accessory Dwelling Units (ADUs) on the existing properties in Osseo is needed. Following a feasibility analysis, the City will consider whether an ordinance amendment allowing this use would be appropriate.	This should occur contemporaneously with evaluation of the Subdivision Ordinance, and ideally within the next 5 years.
General clerical updates	Perform general clerical updates to the zoning ordinance—for example, update references to Minnesota State Statutes and other sections of the city code and clarify definitions as needed.	This should be completed in the 9-month statutory period following Comprehensive Plan adoption.

CHAPTER 153: ZONING

GENERAL PROVISIONS

凤§ 153.001 TITLE.

This chapter shall be known, cited, and referred to as the city's Zoning Code, except as referred to herein, where it shall be known as this chapter.

(1997 Code, § 25.01) (Ord. passed 11-14-1994)

№ 153.002 PURPOSE.

The purpose of this chapter is to:

- (A) Protect the public health, safety, comfort, convenience, and general welfare;
- (B) Promote orderly development of residential, commercial, industrial, institutional, and recreational areas of the city;
- (C) Divide the area within the city into zones and districts regulating the location, construction, reconstruction, alteration, and use of structures and land as well as regulating the bulk of structures in relationship to surrounding properties;
 - (D) Protect and improve the quality of unique natural resources;
 - (E) Preserve and protect property values;
- (F) Provide for the administration of this chapter and define the powers and duties of the administering officer as provided hereinafter; and
- (G) Prescribe penalties for the violation of the provisions in this chapter or any amendment thereto.

(1997 Code, § 25.02) (Ord. passed 11-14-1994)

153.00X RELATIONSHIP TO COMPREHENSIVE PLAN.

It is the policy of the city that the enactment, amendment, and administration of this chapter be accomplished with due consideration of the policies and recommendations contained in the Osseo comprehensive plan as amended from time to time by the city council.

§ 153.003 JURISDICTION; ANNEXATIONS.

The geographic jurisdiction of this chapter shall be the entire area within the corporate limits of the city. Territory that may be added to the city by annexation, merger, or other means shall be classified within the one- and two-family residential (R-1) zoning district until such time that the City Council, after referral to and recommendation by the Planning Commission, may rezone all or portions of the added territory to more appropriate classifications.

(1997 Code, § 25.04) (Ord. passed 11-14-1994)

This chapter is enacted in accordance with the authority granted by M.S. § 462.357, as it may be amended from time to time.

Commented [1]: Joseph Sathe - Note: I changed the setting to check the spelling of capitalized words. I can change it back if necessary.

(1997 Code, § 25.05) (Ord. passed 11-14-1994)

- (A) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- (B) No structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this chapter.

(1997 Code, § 25.07) (Ord. passed 11-14-1994) Penalty, see § 10.99

Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements, shall prevail.

(1997 Code, § 25.07) (Ord. passed 11-14-1994)

- (A) Essential services shall be subdivided into two classes for consideration under this chapter: governmentally owned and operated, or privately owned and operated.
- (B) (1) Governmentally operated and owned essential services (sewer, water, and the like) shall be permitted as authorized and regulated by state law and ordinances of the city. It is the intention that these essential services are exempt from the application of this chapter.
- (2) Privately owned and operated essential services (telephone, electric, gas, and the like) are subject to provisions of this chapter, unless specifically exempted by a provision of this chapter. These essential services are also subject to other ordinances of the city as applicable.

(1997 Code, § 25.07) (Ord. passed 11-14-1994)

§ 153.008 INTERPRETATIONS.

In construing this chapter, the following rules of construction shall govern, unless their observance would involve a construction inconsistent with the manifest intent of the Council, or be repugnant to the context of this chapter.

- (A) Words used in the present tense shall include the past and future tenses, and the future tense shall include the present.
 - (B) Words in the singular shall include the plural, and the plural shall include the singular.
 - (C) The word shall is mandatory, and the word may is permissive.
 - (D) The use of one gender shall include all other genders.
- (E) References herein to the Administrator, Zoning Officer, Planner, Assessor, Engineer, Building Officer, Clerk, or Treasurer shall mean the person who then holds that position in the city, unless otherwise expressly stated.

Field Code Changed

Deleted: City

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Deleted: Administrator, City

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- (F) The use of the phrase "used for" shall include the phrases "designed for," "intended for," "improved for," "maintained for," "offered for," and "occupied for."
- (G) Words and phrases shall be construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and others as have acquired a special meaning, or are defined in this chapter, shall be construed according to that special meaning or their definition.
- (H) References in this chapter to this chapter or to another city ordinance or code provision, whether or not by specific number, shall mean this chapter, and the referred-to ordinance or code provision, as it is in force as of the effective date of this chapter, and as it may from time to time thereafter be amended and modified, and shall also mean and include any ordinances that may supersede or be substituted for the ordinance or code provision so referred to.
- (I) All measured distances expressed in feet shall be rounded to the nearest tenth of a foot. (1997 Code, § 25.03) (Ord. passed 11-14-1994)

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUTTING. Making contact with or separated only by public thoroughfare, railroad, public right-of-way, or navigable waters.

ACCESSORY BUILDING OR USE. A subordinate building or use, attached or detached, which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of that building or main use.

ACCESSORY DWELLING UNIT. A dwelling unit that is located on the same lot as a one-family detached dwelling to which it is accessory, and subordinate in size. An accessory dwelling unit may be within or attached to the one-family dwelling, or in a detached accessory building on the same lot.

ACCESSORY STRUCTURE. A subordinate building or other subordinate structure, including but not limited to detached garages, sheds, gazebos, or swimming pools, the use of which is clearly subordinate or accessory to the principal use of the building or property.

ADDITION. A physical enlargement of an existing structure.

- **ADMINISTRATOR.** The officer, duly authorized deputy, or other person charged with the administration and enforcement of this chapter.
- *ALLEY. A public right-of-way which affords a secondary means of access to abutting property, not to exceed 30 feet in width at its intersection with a street.

ALTERATION. Any change in the size, shape, character, or use of a building or structure; or any change made to a sign; but shall not include routine maintenance, painting, or change of copy of an existing sign.

Commented [2]: Nancy Abts - I would like to number the individual definitions so that they can be more easily referenced. However, convention is to use capital letters for Level 1 subdivisions of a section. Perhaps there's a way to make all of the individual definitions a Level 2 item instead. Not sure if this is an Ordinance issue or a Codifying issue.

Commented [3]: -Crystal and Richfield format the definitions in their ordinances as "Subdivisions". Other cities (Maple Grove, Minneapolis, Brooklyn Park) do not.

Commented [4]: Mary Tietjen - For codification purposes, you just need to make it consistent with the numbering/lettering throughout.

It is also a good idea to review and make sure all of the defined terms are actually used in the Code.

Deleted: utility

Deleted: A building or use subordinate to and serving the principal building or use on the same lot, attached or detached, and clearly and customarily incidental thereto.

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Deleted: *ADDRESS SIGN.* A sign communicating street address only, whether in script or in numerical form.¶

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Deleted: ADVERTISING SIGN. A billboard, poster panel, painted bulletin board, or other communicative device which is used to advertise products, goods, or services which are not exclusively related to the premises on which the sign is located. For purposes of this chapter, a sign posted no more than 120 hours in any eight-day period shall not be considered an **ADVERTISING SIGN.**¶

ANTENNAE. Equipment located on the exterior of or outside of a building or structure used for transmitting or receiving radio, television, or telecommunication signals.

APARTMENT. See DWELLING UNIT.

APARTMENT BUILDING. See DWELLING, MULTIPLE-FAMILY.

APPLICANT. Unless otherwise specified, an owner or agent for the owner, including a subdivider, developer, attorney, or similar representative who has filed an application for development or sign approval with the city.

APPLICATION. The process by which the owner, or their agent, of a parcel of land within the city submits a written request for any type of development or sign approval.

• AUTO REDUCTION YARD. A lot or yard where three or more unlicensed motor vehicles or the remains thereof are kept for the purpose of dismantling, sale of parts, sale as scrap, storage, or abandonment.

AUTOMOBILE DETAILING. Any facility that provides extensive vehicle cleaning in exchange for a fee or as part of a service to customers, including but not limited to the use of vacuums, shampoos and other cleaning products, steam cleaners, and manual detailed cleaning inside and outside the vehicle.

AUTOMOBILE REPAIR, MAJOR. General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers; including body work, frame work, and major painting service.

AUTOMOBILE REPAIR, MINOR. Incidental repairs, replacement of parts, and motor service to automobiles, but not including any operation specified under the definition of automobile repair, major.

AUTOMOBILE SERVICE STATION. Any building or premises used for the dispensing or sale of automobile fuels, lubricating oil or grease, tires, batteries, or minor automobile accessories. Services offered may include the installation of tires, batteries, or minor accessories, minor automobile repairs, and greasing or washing of individual automobiles. When sales, services, and repairs as detailed here are offered to the public, the premises will be classified as a **public garage**. **AUTOMOBILE SERVICE STATIONS** shall not include the sale or storage of vehicles; shall not include premises offering major automobile repairs, automobile wrecking, or detached car washes.

AUTOMOBILE WASHING (CAR WASH). Any facility that provides an area for washing and cleaning of motor vehicles using water, whether it be automated or self-serve, in exchange for a fee or as part of a service to customers and may include vacuums.

AUTOMOBILE WRECKING. See JUNK YARD.

AWNING. A temporary hood or cover which projects from the wall of a building, and of a type which can be retracted, folded, or collapsed against the face of a supporting building.

* BASEMENT. The portion of a building having more than one-half of the clear floor-to-ceiling height below the average level of the adjoining finished grade. A BASEMENT shall be counted as a story when the ceiling of the BASEMENT extends more than five feet above the highest level of the adjoining finished grade; otherwise it shall not be counted as a story.

Deleted: AREA IDENTIFICATION SIGN. A sign which identifies the name of a shopping center consisting of three or more separate business concerns, a singular freestanding commercial or institutional building 50,000 square feet or larger, an industrial building in excess of 100,000 square feet, an industrial area, an office or institutional complex consisting of three or more buildings, or any combination of the above. An AREA IDENTIFICATION SIGN shall contain no advertisement, except on a reader board. ¶

Deleted: *BANNERS.* Temporary signs or other attention-getting devices used to announce open houses, grand openings, special announcements, sales, or other matters.¶

BILLBOARD. See OFF-PREMISE SIGN.

BLOCK. A tract of land bounded by streets, highways, expressways, or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, waterways, or boundary lines of the corporate limits of the city.

BOARD. The Zoning Board of Appeals.

BOARDING HOUSE. A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three or more persons, but not to exceed eight persons.

BROADCASTING ANTENNA, RADIO AND TELEVISION. Commercial or public broadcasting towers over 200 feet in height, or more than one tower in each installation of any height, or accessory use non-commercial towers of any height if not located on the same lot or parcel as the principal use.

BUILDABLE AREA. The space remaining on a zoning lot after the minimum setbacks and open space requirements of this chapter are met.

BUILDING. The portion of a structure that consists of a roof and is enclosed so as to afford persons or property protection from the elements, which structure is used or intended for supporting or sheltering any use or occupancy; and when the structure is divided by party walls without openings, each portion of the **BUILDING** so separated shall be deemed a separate **BUILDING**.

BUILDING, COMPLETELY ENCLOSED. A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance and exit doors.

BUILDING, DETACHED. A building surrounded by open space on the same lot as the principal building.

BUILDING FACADE. The area of any exterior elevation of a building extending from grade to the top of the exterior wall and the entire width of the building elevation, including parapets, awnings, canopies, mansards, or other appendages or architectural treatments to the wall. The **FACADE** does not include flat roof sections of multi-level buildings nor the shingled faces of hip roofs or gable roofs.

BUILDING HEIGHT. The vertical distance measured from curb level or its equivalent, to the highest point of the roof surface on a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge of gable, hip, and gambol roofs. For buildings set back from the street line, the height of the building shall be measured from the average elevation of the finished grade along the front of the building, provided its setback from the street line is not less than the height of the finished grade above the established curb level.

Deleted: *BENCH SIGNS.* A sign which is affixed to a bench, such as at a bus stop.¶

Deleted: ADVERTISING

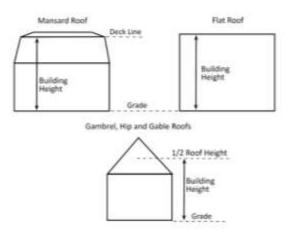


Figure 1: Illustration of building height

BUILDING LINE. An imaginary line separating buildable area and required yards.

BUILDING, NON-CONFORMING. Any building or structure which does not comply with all the regulations of this chapter or any amendment thereto governing the zoning district in which the building or structure is located.

BUILDING OFFICIAL. A city official appointed by the City Council to provide for the enforcement of the Building Code.

BUILDING, PRINCIPAL. A non-accessory building in which the primary use of the lot on which it is located is conducted.

BUSINESS. Any establishment, occupation, employment, or enterprise wherein merchandise is manufactured, exhibited, or sold, or which occupies time, attention, labor, and materials, or where services are offered for compensation.

- **CANOPY.** A projection or extension of a building or structure erected in a manner so as to provide a shelter or cover over the approach to any entrance to a store, building, or place of assembly.
- **CANOPY, VEHICULAR SERVICE.** A permanent roof-like structure either attached or detached from a permitted building, designed to provide cover for off-street vehicle service areas, such as gasoline station pump islands, drive-in establishments, truck loading berths, and the like.

RELIGIOUS INSTUTUTION. A building, together with its accessory buildings, where persons regularly assemble for public worship as the principal use and where the buildings and uses are maintained and controlled by a religious body organized to sustain public worship.

Deleted: BUSINESS SIGN. Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where the sign is located.¶

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

 $\begin{tabular}{ll} \textbf{Deleted:} & \textit{CANOPY SIGN.} & \textbf{Any message or identification affixed to a canopy.} \P \end{tabular}$

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CITY. The City of Osseo, unless otherwise provided by the context.

CLINIC, *MEDICAL*. A building in which a group of physicians, dentists, or combination thereof, and professional assistants, are associated for carrying on their profession. The *CLINIC* may include a dental or medical laboratory, but shall not include inpatient care or operating rooms for major surgery.

COMMERCE, RETAIL SERVICE. An enterprise that involves the offering of a service or entertainment to the general public for compensation.

COMMERCE, RETAIL TRADE. An enterprise that involves the offering of a product to the general public for compensation.

CONDITIONAL USE. A use which, although generally compatible with the basic use classification of a particular zone, should not be permitted to be located as a matter of right in every area included within a zone because of hazards in the use itself or special problems which its proposed location may present.

CONDOMINIUM. A form of individual ownership within a multiple-family structure which entails joint responsibility for maintenance and repairs; each dwelling unit is owned outright, and each occupant owns a share of the land and other property.

COUNCIL. The City Council.

CURB LEVEL. The level of the established curb in front of the building measured at the center of the front. Where no curb elevation has been established, the City Engineer shall establish a curb elevation. When a building has frontage on more than one street, the lowest **CURB LEVEL** as determined above will apply.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including buildings or other structures; dredging, filling, grading, paving, excavation, or drilling operations; or storage of equipment or materials.

DISTRICT. Refers to a specific zoning district as defined by this chapter.

DISTRICT, **ZONING**. A portion of the corporate area of the city within which certain uniform regulations and requirements or various combinations thereof apply under the conditions of this chapter.

DUPLEX. A residential structure containing two dwelling units only, completely surrounded by open space.

DWELLING. A building or portion thereof designed or used wholly or in part for living or sleeping by human occupants, including one-family, two-family, and multiple-family dwelling units; but not including hotels, motels, boarding or rooming houses, recreational vehicles, tents, or cabins. Garages, tents, sheds, greenhouses, and similar accessory structures shall not be considered dwellings and shall at no time be used as a dwelling, either temporarily or permanently. Tents may be used for recreational purposes.

DWELLING, **DETACHED**. A dwelling that is completely surrounded by open space on the same lot.

Deleted: —CONSTRUCTION SIGN. A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier, or other involved parties.¶

Deleted: DIRECTION SIGN. A sign erected on public or private property which bears the address and/or name of a business, institution, church, or other use or activity, plus directional arrows or information regarding location. ¶
DIRECTORY SIGN. An exterior informational wall sign which identifies the names of businesses served by a common public entrance. ¶

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Deleted: residential occupancy

Commented [10]: Joseph Sathe - I think it is fine to include "tents" twice because there are camping tents (as described in the first sentence for the sleeping of human occupants) and other tents (e.g., for events), but it is somewhat confusing to use the same term twice and then use it a third time for an exception.

Commented [11]: Mary Tietjen - Also, I think the last two sentences here are substantive use provisions and should be somewhere other than in a definition.

Commented [12]: Joseph Sathe - FYI MDT – Agreed. This was copied from Crystal's code definitions.

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DWELLING, ONE-FAMILY ATTACHED. A building, such as townhouses or row houses, containing dwellings in which: (a) each dwelling is located on its own parcel; (b) each dwelling is attached to another by party walls without openings; and (c) each dwelling has primary ground floor access to the outside.

DWELLING, MULTIPLE-FAMILY. A single structure specifically constructed and designed for and containing three or more dwelling units, with more than one unit connecting to a common corridor or entrance way or with the dwelling units having two or more contiguous party walls. For example, four-plexes and apartment buildings; but not including hotels, motels, or boarding houses.

DWELLING, **ONE-FAMILY**. A residential structure containing only one dwelling unit.

DWELLING, TWO-FAMILY. A building designed exclusively for occupancy by two families living independently of each other, typically referred to as a double bungalow or duplex, where the entire building is located on a single lot. Neither dwelling unit comprising a two-family dwelling shall be an accessory dwelling unit.

DWELLING UNIT. One or more rooms which are arranged, designed, or used exclusively as living quarters for one family or one individual only. Complete single kitchen facilities and individual bathrooms, permanently installed, shall always be included with each **DWELLING UNIT**.

EAVES. The edge of a roof, usually projecting beyond the walls, the height of which edge is measured from the lowest point thereof to grade.

EFFICIENCY UNIT. A dwelling unit with one primary room which doubles as a living room, dining room, and bedroom.

EROSION. The wearing away of the land surface by the action of natural elements.

ESSENTIAL SERVICES. Underground or overhead gas, electrical, steam, or water transmission or distribution system; collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, or other similar equipment or accessory equipment in conjunction therewith, not including buildings.

* FAMILY. A groups of one or more persons related or unrelated, all of the members of which have common use and access to all living and eating areas, bathrooms, and food preparation and serving areas and which is based on an intentionally structured relationship providing organization and stability, maintaining a common household in a dwelling unit. A family includes group homes for people with disabilities, but it does not include larger institutional group living situations such as (but not limited to) dormitories, retirement homes, and nursing homes.

FENCE. A structure, including walls, hedges, or similar barriers, providing enclosure, but not necessarily protection, against the elements, or which provides a visual barrier between adjacent property and the area enclosed.

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Commented [14]: Mary Tietjen - Last sentence is substantive – could consider separating it from the definition

Commented [**15**]: Joseph Sathe - FYI MDT – First sentence is from crystal. 2nd sentence is not.

Commented [16]: Mary Tietjen - Same comment as above.

Commented [NA17]: Is this part necessary?

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Deleted: by blood, marriage, or adoption, including foster children

Commented [18]: Mary Tietjen - I'm suggesting the revisions so that it includes non-traditional family units.

Deleted: *FEEDLOT.* An enclosure for the purpose of feeding, breeding, raising, or holding poultry or livestock, not an accessory use incidental to an agricultural operation.

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* **FLOOR AREA.** The sum of the gross horizontal areas of the several floors of a building or buildings on a zoning lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings. In particular, **FLOOR AREA** will include:

- (1) Basement space (as basement is defined herein);
- (2) Attic floor space where the structural headroom exceeds seven and one-half feet;
- (3) Interior balconies and mezzanines;
- (4) Enclosed porches, but not terraces and breezeways;
- (5) Stairwells at each level; and
- (6) Accessory structures.

FLOOR AREA, LIVABLE. The same area as defined in the definition of floor area herein, excluding all areas occupied by basements, garages, porches, attics, stairways, and storage, utility, and heating rooms, and other accessory uses.

FLOOR AREA RATIO or **F.A.R.** The floor area of the building or buildings on a zoning lot divided by the area of the zoning lot, or in the case of planned development, by the net site area. The **F.A.R.** requirements, as set forth in each zoning district, shall determine the maximum floor area allowable (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.

**FRONT BUILDING FACADE. The side or sides of the building containing the public entrance.

GARAGE, *PRIVATE*. An attached or detached building or portion of the principal building, including a carport, which is used primarily for storing passenger vehicles and recreational vehicles. A private garage has no facilities for mechanical service or repair.

GARAGE, *PUBLIC*. A place where any or all of the services as set forth in the definition of automobile service station herein are offered to the public, and the services or sales are made directly into or on the motor vehicle.

GRADE.

- (1) For buildings and structures, the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
 - (2) For signs, the elevation of the ground immediately adjacent to the sign base.

HOME OCCUPATION. An accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services that is clearly customary, incidental, and accessory to the primary residential use.

• *HOSPITAL*. An institution providing persons with intensive medical or surgical care and devoted primarily to the diagnosis and treatment of disease or injury, maternity cases, or mental illness.

HOTEL. A building containing eight or more guest rooms in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests or both,

Deleted: —FLASHING SIGN. A sign which contains rotating, flashing, or intermittent lights, or animation, or exhibits noticeable changes in color, intensity, texture, shape, pattern, or light intensity, ¶

Deleted: —FREESTANDING SIGN. Any stationary, self-supporting sign not affixed to any other structure and supported by a pole(s). A reader board may be attached to the FREESTANDING SIGN structure, but the reader board shall not exceed 20% of the area containing the sign copy. The reader board shall be included in calculating the allowable sign square foot area as required in the individual district.

Deleted: — GOVERNMENTAL SIGN. A sign which is erected by a governmental unit for the purpose of identification and directing or guiding of traffic.¶

Deleted: —*GREENHOUSE.* A structure used for the cultivation or protection of flowers, vegetables, and nursery stock.

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Deleted: —HOME OCCUPATION SIGN. A sign directing attention to a home occupation.

and where no provision is made for cooking in any guest room, and where ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

* IMPERVIOUS SURFACE. Any structure or surface which does not readily absorb water into the ground or retain water, including but not limited to buildings, roofs, sidewalks, paved driveways and parking areas, patios, tennis courts, swimming pools, or any other similar surface.

INDUSTRY. An enterprise which involves the production, processing, or storage of materials, goods, or products.

JUNK YARD. An area where used, waste, discarded, or salvaged equipment or materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles, and lumber. A JUNK YARD includes an automobile wrecking or dismantling yard, but does not include uses established in conjunction with a permitted manufacturing process when within an enclosed area or building.

KENNEL. Any structure or premises on which four or more dogs over four months of age are kept for sale, breeding, profit, boarding, and the like.

LANDSCAPE. Any changing, rearranging, or adding to the original vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.

LOADING SPACE. The portion of a lot designed to serve the purpose of loading and unloading all types of vehicles.

LOT. A zoning lot, except as the context shall indicate a lot of record, in which case a **LOT** is a lot of record.

LOT AREA. The area of a horizontal plane bounded by the front, side, and rear lot lines, measured within the lot boundaries, but not including any area occupied by the waters of a duly recorded lake or river.

LOT, CORNER. A lot situated at the intersection of two streets.

LOT COVERAGE. The area of a zoning lot occupied by the principal building or buildings and accessory structures.

LOT DEPTH. The average horizontal distance between the front and rear lot lines measured within the lot boundaries.

LOT, INTERIOR. A lot other than a corner lot.

LOT LINE, **FRONT**. The boundary of a lot abutting a street. On a corner lot, the shortest street lot line will be the **FRONT LOT LINE**.

LOT LINE, REAR. The boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line.

LOT LINE, SIDE. Any boundary of a lot which is not a front lot line or a rear lot line.

Deleted: IDENTIFICATION

SIGN or NAMEPLATE. Any sign which states the name and/or address of the business or occupant of the lot or building where the sign is placed or may be a directory listing the names, addresses, and/or businesses of occupants. IDENTIFICATION SIGNS shall contain no advertisement.

—ILLUMINATED SIGN. Any sign which is designed to be or is lighted by an artificial light source either directed upon it or illuminated from an interior

source. All HLLUMINATED SIGNS shall have light sources shielded to confine direct illumination to the face area of the sign.¶

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Deleted: <u>INFORMATION SIGN</u>. Any sign giving information to employees, visitors, or delivery vehicles, but containing no advertising or identification.

—INSTITUTIONAL SIGN. A sign and/or reader board which identifies the name and other characteristics of an institutional use located within any zoning district and allowed by this chapter. INSTITUTIONAL SIGNS shall contain no advertisement. Examples: churches, schools, sanitariums, hospitals, government buildings, or nursing homes.*

—INTEGRAL SIGN. A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets, and the like, when carved into stone concrete, or similar material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure.

■

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LOT OF RECORD. A lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds or Register of Titles prior to adoption of this chapter; or a parcel of land, the deed to which was recorded in the office of Register of Deeds or Register of Titles prior to adoption of this chapter.

LOT, THROUGH. A lot having a pair of opposite lot lines along two more or less parallel public streets. On such a lot, both street lines shall be deemed front lot lines.

LOT WIDTH. The horizontal distance between the side lot lines of a lot measured at the building setback line.

LOT, ZONING. A single tract of land which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. A **ZONING LOT OR LOTS** may or may not coincide with a lot of record.

MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and which complies with the manufactured home building code established by M.S. § 327.31, Subd. 3, as it may be amended from time to time.

MANUFACTURING. To bring something into being by forming, shaping, combining, or altering materials.

MANUFACTURING, ARTISAN. The production of goods by the use of hand tools, light mechanical equipment, or similar means, occurring solely within an enclosed building. A building containing an artisan manufacturing use must have negligible negative impact on the urban fabric, surrounding properties, water resources, air quality, and/or public health. Such uses include, but are not limited to: production of alcohol including certain breweries and microdistilleries as allowed by city code and state law; woodworking and cabinet shops; ceramic studios; jewelry manufacturing; welding and metal fabricators; upholsterers; food processing; and arts and crafts.

MATERIAL, DURABLE. A hard-surfaced material such as concrete or asphalt, but not including gravel or crushed rock.

MEASURED WALL. The wall or walls comprising the front building facade.

MIXED USE BUILDING. A structure that contains at least one floor devoted to allowed nonresidential uses and at least one floor devoted to allowed residential uses.

MOBILE HOME. A factory-assembled structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit without permanent foundation; meaning that the support system is constructed with the intent that the **MOBILE HOME** placed thereon will be moved from time to time at the convenience of the owner. A manufactured home is not a mobile home.

Commented [23]: Mary Tietjen - What does the phrase "coincide with" mean here?

Commented [**24**]: Joseph Sathe - I think the definition does work here, but it is not the common use and could be changed.

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Commented [25]: Joseph Sathe - I have not seen other codes actually define "mixed us" or "mixed use building" but I do not see an issue with including a definition except that the two times "mixed use building" is used below (153.XXX (B) and (C) on p29) would only apply to buildings that have wholly dedicated floors.

Commented [**26**]: Joseph Sathe - This section is in a different font size

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MODULAR, PRE-FABRICATED. A dwelling unit which is of closed construction and which is made or assembled in manufacturing facilities on or off the building site for assembly and/or installation on the building site. A **MANUFACTURED DWELLING UNIT** may also mean a building of open construction, made or assembled in manufacturing facilities away from the building site for assembly and/or installation on the building site. This type of structure will be made permanently affixed to the building site, and shall be considered congruous to a one-family dwelling.

MOTEL, MOTOR COURT, or MOTOR HOTEL. An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom, located on a single zoning lot and designed for use by transient automobile tourists and furnishing customary hotel services.

MOTOR VEHICLE. Any passenger vehicle, truck, truck-trailer, motorcycle, or recreational vehicle propelled or drawn by mechanical power.

NON-CONFORMING SIGN. A sign which was lawful at the time it was erected but which does not now conform with the regulations of this chapter; also known as a **LEGAL NON-CONFORMING SIGN**.

NOXIOUS MATTER OR MATERIAL. Material which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.

NURSING, CONVALESCENT, AND RETIREMENT HOMES. A home for aged, chronically ill, or convalescent persons in which two or more persons not of the immediate family are received, kept, or provided with food, shelter, and care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury or mental illness.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

ODOROUS MATTER. Any material or matter that yields an odor which is offensive in any way.

OPEN SPACE. Any open area not covered by structures owned by a person or persons including but not limited to the following uses: required or established yard areas, parking areas, sidewalks, school walks, trails, recreation areas, groundwater recharge areas, flood plain, floodway, flood fringe, erodible slopes, woodland, and soils with severe limitations for development.

OWNER OR PROPERTY OWNER. The owner or taxpayer of record according to Hennepin County property tax records.

PARAPET. The part of any wall or wall-like structure entirely above the roof line.

Commented [27]: Joseph Sathe SP: Motor, Motor Court

Deleted: - MONUMENT SIGN. 9

(1) A sign which is attached to or supported by a monument structure which bears entirely on the ground. extending horizontally for a minimum of 80% of the entire length of the sign face. The sign base shall be constructed of any one or combination of the following materials: brick, stone, decorative masonry, plastic, aluminum, colored metals, or decay-resistive wood. The base and supporting material shall constitute at least 25% of the total allowable sign square footage. A reader board may be attached to the MONUMENT SIGN but shall not exceed 20% of the area containing the sign copy. The sign copy, reader board, or message shall have a minimum clearance of three feet above grade. The area containing sign copy, including reader board, and the area of the monument structure itself shall be combined for determining the total square footage and height.¶

(2) A sign attached to a retaining wall shall be considered to be a MONUMENT SIGN provided the message or copy does not exceed the allowable sign area as specified for the applicable zoning district, and all other provisions for a MONUMENT SIGN are met. ¶

Commented [28]: Nancy Abts - I am not sure why we need this definition.

Commented [29]: Joseph Sathe - The Motel, Motor Court, or Motor Hotel definition likely covers establishments that have less than 8 rooms (Hotels are defined to include 8 or more). Crystal's definition includes "Hotel, Motel, Extended Stay" to include 4 or more guest rooms.

Deleted: —MOTION SIGN. Any sign which revolves, rotates, has any moving parts, or gives the illusion of motion.

Deleted: —NON-PROFIT ORGANIZATION.—A corporation formed under M.S. Ch. 317A, as it may be amended from time to time, or similar statute of another state or governing entity, and which is formed for a purpose not involving pecuniary gain to its shareholders or members and paying no dividends or other pecuniary remuneration, directly or indirectly, to its shareholders or members; or a community or civic group such as the Lions Club, League of Women Voters, or the like. ¶

Commented [**30**]: Joseph Sathe - How does this conflict with Specialized Care Facilities, defined below?

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PARKING SPACE, AUTOMOBILE. A suitably surfaced and permanently maintained area off the public street right-of-way, either within or outside of a building, of sufficient size to store one standard automobile, but in no event less than 180 square feet, exclusive of passageways, driveways, or other means of circulation.

PARTICULATE MATTER. Dust, smoke, or any other form of airborne pollution in the form of minute separate particles.

PARTY WALL. A wall which divides a structure into two independent buildings.

PENNANT. Attention-getting devices, such as streamers, constructed of paper, cloth, plastic, or other materials; excluding banners and flags.

PERFORMANCE STANDARDS. Criteria established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, glare, or heat, generated by or inherent in uses of land and buildings.

• *PERSON*. Any individual, firm, partnership, corporation, company, association, joint stock association, or political body; and includes any trustee, receiver, assignee, or other similar representative.

PLANNING COMMISSION. The Planning Commission of the city.

PROPERTY LINES. The lines bounding a zoning lot as defined herein.

PUBLIC ENTRANCE. A passage or opening in a building, which passage or opening is designed primarily to facilitate the ingress or egress of members of the general public who are seeking the goods or services offered therein.

- (1) The term members of the general public shall not include supportive service- and maintenance-related personnel.
- (2) Factors to be used in determining that a passage or opening is a *PUBLIC ENTRANCE* and which will be considered as affirming an entrance to be *PUBLIC* shall include such things as the location and design of the entrance, its role in the city's determination of the building's street address, and its use by the Postal Service as a delivery point of mail addressed to the building or the use therein.

PUBLIC UTILITY. A person, firm, or corporation, municipal department, board, or commission duly authorized to furnish and furnishing to the public, under federal, state, or municipal regulations, gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

RESTAURANT OR EATING ESTABLISHMENT. An establishment whose principal business is the selling of food and beverages to the customer in a ready to consume state. Restaurants or eating establishments may include, but are not limited to, cafes, coffee shops, and ice cream shops.

RETAIL ESTABLISHMENTS. Establishments primarily engaged in the sale of goods to the general public. Retail uses may include, but are not limited to, bookstores, bakeries, grocery stores, and other similar uses.

Deleted: —PERMANENT-SIGN.—Any sign which is not a temporary sign.¶

Deleted: —PORTABLE SIGN. A sign so designed as to be movable from one location to another and which is not permanently attached to the ground, sales display device, or structure.

- -PRODUCT IDENTIFICATION SIGNS. A sign that is not necessary to identify a business and identifies a product or service either sold on or off the premises on which the sign is located.
- PROJECTING SIGN. A sign, other than a wall sign, which is affixed to a building and which extends perpendicular from the building wall.

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* RECREATIONAL VEHICLE. Any type of vehicle, either self-powered or drawn by another vehicle, that is used primarily for purposes of recreation or transportation of recreational vehicles, equipment, and the like, including but not limited to campers, motor homes, travel trailers, snowmobiles, camper trailers, motorcycle trailers, snowmobile trailers, horse trailers, and the like.

ROOF. The outside top covering of a building designed to serve as the principal means of enclosing the building interior from descending outside elements such as, but not limited to, rain, snow, and sunlight.

ROOF LINE. The top of the coping or, where the building has a pitched roof, the intersection of the outside wall with the roof.

RUMMAGE SALE or **GARAGE SALE**. An infrequent temporary display and sale by an occupant on his or her premises of personal property, including general household rummage, used clothing, and appliances. The persons conducting the sale must be residents of the property on which the sale is conducted.

SATELLITE ANTENNA. A structure and all supporting apparatus which is used for receiving satellite signals. If the structure is roof-mounted and exceeds ten feet in height above the highest point of the roof, it is considered a roof-mounted antenna. If the structure is ground-mounted it is considered an accessory structure.

SETBACK.

- (1) For signs, the minimum horizontal distance from the closest part of a sign to the property line, or public street easement or right-of-way.
- (2) For structures, the minimum horizontal distance between the front, rear, or side line of the building or structure (excluding steps, unroofed porches, and overhangs) and the front, rear, or side lot line, unless specifically designated otherwise.

SHOPPING CENTER. An integrated grouping of commercial stores, under single ownership or control.

SIGN. Any letter, word or symbol, poster, picture, reading matter, or representation in the nature of advertisement, announcement, message, or visual communication, other than a *FLAG* or *MURAL* as defined in this section, whether painted, posted, printed, affixed, engraved, or constructed, including all associated brackets, braces, supports, wires, and structures, which is displayed for informational or communicative purposes. This definition shall also include *FLAGS* that exceed the sizes specified by § 153.092(A)(3)(e).

Signs shall be further defined as follows:

ABANDONED SIGN. Any SIGN and/or its supporting sign structure, which has been removed or whose display surface remains blank for a period of one year or more, or any SIGN which has been erected in violation of this code. SIGNS applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one year or more. Any SIGN remaining after demolition of a principal structure shall be deemed to be abandoned. Any SIGN meeting this definition shall be considered abandoned even if the SIGN is legally nonconforming or authorized pursuant to a conditional use permit or variance.

Deleted: READER BOARD SIGN. The portion of the sign used for removable or changeable letters and numbers to convey messages.¶

REAL ESTATE SIGN. A business sign placed upon a property advertising that particular property for sale, for rent, or for lease.¶

Deleted: —ROOF SIGN. Any sign which is erected, constructed, or attached wholly or in part upon or over the roof of a building.¶

-ROTATING SIGN. A sign which revolves or rotates or

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Commented [31]: Joseph Sathe - Paragraph formatting throughout "Sign" section is not uniform and has random line breaks.

Commented [32]: Mary Tietjen- We need to discuss whether you are repealing the definitions in section 153.091 in light of their insertion here.

Commented [33]: Joseph Sathe - Bold and italics formatting. This section highlights its own definition, but also the definitions of other sections in bold (e.g., "Building" under Attached Sign).

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_ANIMATED SIGN. A SIGN that has any visible moving part, flashing or oscillating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that move, change, flash, oscillate, or visibly alter in appearance in a manner that is not permitted by these regulations. ANIMATED SIGNS do not inherently include ELECTRONIC MESSAGE DISPLAY SIGNS, although it is possible that electronic message display signs be used or programmed as ANIMATED SIGNS.

_ATTACHED SIGN. Any SIGN that lacks a supporting framework and is therefore attached or anchored to any BUILDING or other STRUCTURE; any SIGN that is not a FREESTANDING SIGN.

_AWNING SIGN. A SIGN printed on or in some fashion attached directly to the AWNING material.

BANNER. A **SIGN** constructed of cloth, paper, plastic, or other material upon which copy is written and supported, either between poles or fastened to buildings or other structures, and that is supported or anchored on two or more edges or at three or more corners. **BANNERS** also include such **SIGNS** which are supported by an internal frame (such as an umbrella) or are anchored along one edge or two corners, with weights or supports installed that substantially reduce the reaction of the **SIGN** to wind.

BENCH SIGN. A **SIGN** located on any part of the surface of a bench or a similar type of outdoor furniture or seating, usually placed on or adjacent to a **PUBLIC RIGHT-OF-WAY**.

BUILDING SIGN. Any **SIGN** attached to or supported by any **BUILDING**.

- CLASS A SIGNAGE. Durable and permanent SIGNS including:
- (1) Any SIGN that requires a building or electrical permit to install; and
- (2) SIGNS constructed from wood, plastic, metal, concrete, or other durable, weather-proof materials, with a weather-proof display area; and not otherwise specified as CLASS B or CLASS C SIGNS.
- CLASS B SIGNAGE. Non-durable, impermanent SIGNS including:
- (1) **DEMOUNTABLE LETTER SIGNS**;
- (2) MOVEABLE SIGNS;
- (3) BANNERS;
- (4) Other SIGNS not constructed from durable, weather-proof materials; and
- (5) Other *SIGNS*, which, due to design, material, and installation method are temporary in nature. This includes *SIGNS* not displayed or intended to be displayed for a length of 30 days or longer.

CLASS C SIGNAGE.

- (1) Obtrusive, impermanent, moving, or otherwise dynamic SIGNS including:
- (a) INFLATED SIGNS;
 - (b) **FEATHER BANNERS**;
- (c) **PENNANT SIGNS**;

- (d) PORTABLE TRAILERED SIGNS; and
- (e) SHIMMERING SIGNS;
- (2) But excluding *INTERIOR SIGNS* of all types.

__CUMULATIVE MAXIMUM SIGN AREA (CMSA). The total maximum sign area which is allowed on any individual property within the city, and for the proportion of CLASS A, CLASS B, and CLASS C SIGNS as herein defined. Regardless of the allowance for signage in any class, no property, including those with a NONCONFORMING SIGN, may exceed its overall CUMULATIVE MAXIMUM SIGN AREA.

DEMOUNTABLE LETTER SIGN. A **SIGN** with individual letters, numbers, and symbols, but not entire words or phrases, which may be manually removed and replaced on a track or other mounting hardware on the sign. Also commonly known and referred to as a changeable letter sign or arrow sign, although a **DEMOUNTABLE LETTER SIGN** need not include an arrow.

ELECTRICAL SIGN. A **SIGN** that is powered by electricity.

_ELECTRONIC MESSAGE DISPLAY (EMD). A single SIGN with up to two faces, capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means.

_EXTERIOR SIGN. A SIGN located on the outside of a BUILDING, STRUCTURE, or outdoor display area, or located on the interior of a BUILDING, but which is primarily intended to be viewed from the exterior of the BUILDING.

FEATHER BANNER. A type of elongated **BANNER** and freestanding temporary sign typically made of a flexible fabric or similar material attached to a long rigid pole in the general shape of a feather, teardrop, or similar shape, not to exceed 28 square feet in total area. The definition includes functionally similar display devices. Also commonly known and referred to as a banana banner or teardrop banner.

FLAG. Any fabric or similar lightweight material attached at one edge or no more than two corners of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes, and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices or text. If any dimension of a **FLAG** is more than three times as long as any other dimension, it shall be regulated as a **BANNER** for the purposes of this subchapter.

__FLASHING SIGN. A type of ANIMATED SIGN. A directly or indirectly illuminated SIGN which exhibits changing light or color effect by any means so as to provide intermittent illumination or which includes the illusion of intermittent flashing light by means of animation or any other mode of lighting, which may include, but is not limited to, zooming, twinkling, or sparkling.

_FREESTANDING SIGN. Any SIGN which has supporting framework that is placed on or anchored in the ground and which is independent from any BUILDING or other STRUCTURE.

_HEIGHT OF SIGN. For FREESTANDING SIGNS, the HEIGHT OF THE SIGN shall be the vertical distance measured from the base of the SIGN at average GRADE, to the top of the highest attached component of the SIGN. For SIGNS attached to BUILDINGS, the height shall be the vertical distance from the lowest attached component of the SIGN to the highest attached component.

<u>ILLUMINATED SIGN</u>. Any <u>SIGN</u> illuminated by a source of light which is directly cast upon the exterior surface or face of the <u>SIGN</u> and intended to illuminate the <u>SIGN</u> by reflection, or

which is illuminated from within or behind the *SIGN* so as to reflect or emanate light through the *SIGN*.

<u>INFLATED SIGN</u>. A <u>SIGN</u> consisting of a bag made of lightweight material supported by helium, hot, or pressurized air, which is secured to the ground or a <u>STRUCTURE</u> in some fashion, and which is greater than 18 inches in diameter.

_INTERIOR SIGN. A SIGN which is located within the interior of any BUILDING or within an enclosed lobby or court of any BUILDING and which is primarily intended to be viewed from the interior of the BUILDING.

_MONUMENT SIGN. Any FREESTANDING SIGN with its SIGN FACE mounted on the ground or mounted on a base, subject to the height limitations of the zoning district in which it is located.

__MOVEABLE SIGN. A temporary SIGN, made of vinyl, paper, cloth or fabric, corrugated plastic, cardboard, plywood, or similar material, including SIGNS with wood or wire framing, posts, or stakes, supported by the ground but not permanently attached to the ground, which can be regularly moved from a location at periodic intervals, and which has a total height not exceeding four feet and a total area not exceeding six square feet. The term includes SANDWICH BOARD SIGNS. The term does not include BANNERS. A MOVABLE SIGN is not considered to be a PORTABLE TRAILERED SIGN.

<u>MURAL</u>. An image painted or applied on the exterior of a <u>BUILDING</u> wall or other permanent <u>STRUCTURE</u> and for which no more than 5% of the total area covered by the <u>MURAL</u>, or 100 square feet (whichever is less), consists of text.

NONCOMMERCIAL SPEECH. Speech not defined as **COMMERCIAL SPEECH** which includes, but is not limited to, speech concerning political, religious, social, ideological, public service, and informational topics.

_NONCONFORMING SIGN. A SIGN which was lawful at the time of its construction but does not now conform to this subchapter.

OFF-PREMISE SIGN. A COMMERCIAL SPEECHSIGN which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same PROPERTY where such SIGN is located.

_OVERHANG SIGN. A SIGN that overhangs sidewalk rights-of-way a maximum of one and one-half feet, with a minimum clearance of eight feet between the bottom of the OVERHANG SIGN and the sidewalk surface.

PENNANTS. Pieces of cloth, paper, plastic, or similar material intended to be individually supported or attached to each other by means of rope, string, or other material and intended to be hung on **BUILDINGS** or other **STRUCTURES** or between poles, and does not include any written material, graphic, or other form of copy.

PENNANT SIGN. A display of **PENNANTS** on one **PROPERTY** that exceed the sizes specified by § 153.092(A)(3)(e).

PORTABLE TRAILERED SIGN. Any **SIGN** which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another **SIGN** or attached temporarily or permanently to the ground. A **SIGN** mounted on a vehicle identifying a business when the vehicle is being used in the normal day to day operation of that business is not subject to the regulations

Commented [**34**]: Joseph Sathe - Is this defined elsewhere in the code?

Commented [35]: Joseph Sathe - SP: Speech Sign

set forth in this section, provided the vehicle is in operable condition, carrying a current, valid license tag, and the vehicle does not remain parked at the same location for 48 continuous hours. BANNERS, MOVABLE SIGNS, PENANTS, PENANT SIGNS, and SANDWICH BOARD SIGNS shall not be considered PORTABLE TRAILERED SIGNS for the purpose of this subchapter.

PYLON SIGN. Any freestanding **SIGN** which has its supportive structure(s) anchored in the ground and which has a **SIGN FACE** elevated above ground level by pole(s) or beam(s) more than eight feet and with the area below the **SIGN FACE** open.

ROOF SIGN. Any **SIGN** erected and constructed wholly on or above the **ROOF** or parapet of a **BUILDING** or **STRUCTURE** and which is supported by the roof structure.

<u>SANDWICH BOARD SIGN</u>. A type of <u>MOVEABLE SIGN</u> that is a freestanding, self-supporting <u>SIGN</u> hinged at the top, or attached in a way that forms a shape similar to the letter "A" when viewed from the side, also commonly known and referred to as an A-frame sign or a <u>springboard sign</u>.

__SEASONAL, HOLIDAY, and FESTIVE DECORATION. HOLIDAY or FESTIVE shall mean a calendar date or dates associated with a specific event or season including, but not limited to, New Year's Day, Martin Luther King Jr. Day, Valentine's Day, Passover, Holi, Ramadan, Easter, Memorial Day, Independence Day, Labor Day, Halloween, Thanksgiving, Hanukah, Christmas, Kwanza; DECORATION shall mean ornaments, figures, statutes, inflatable characters, seasonal lighting, and related products that are placed on a property for a temporary period of time in observance of a holiday or festival.

<u>SHIMMERING SIGN.</u> A type of *ANIMATED SIGN* which reflects an oscillating or sometimes distorted visual image.

TOTAL SITE SIGNAGE. The maximum combined area of all SIGNS allowed on a

WALL SIGN. Any **BUILDING SIGN** attached parallel to, painted on the surface of, or erected on, and confined within the limits of, an outside wall of any **BUILDING** or **STRUCTURE**, which is supported by such **WALL** or **BUILDING**, and which displays only one **SIGN** surface.

_WINDOW SIGN. A SIGN affixed to or inside of a window in view of the general public. This does not include merchandise on display.

v SITE AREA. The area of a parcel or parcels of land to be developed under the R-2 and R-3 district regulations and to be developed as part of a single development action or a single stage of a staged development.

SPECILAIZED CARE FACILITIES. Any facility whose primary function is the provision, on a continuing basis, of nursing services and health-related services for treatment and in-patient care, such as nursing homes, memory care facilities, and hospices. This does not include senior housing or the residence of any individual who cares for another family member.

STREET, ARTERIAL. A street which provides for traffic movement to and from municipalities and the surrounding areas, to and from freeways or expressways and collector streets, and between major parts of an urban area. Intersections are at grade and direct access to abutting property should be avoided.

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Commented [38]: Nancy Abts - We don't have an R-3 zone...

Deleted: Any object, device, display, structure, or part thereof, situated outdoors or indoors, which is displayed to attract the attention of the public while on public streets, highways, or walkways to the object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. SIGNS do not include flags of any nation, state, city, religion, or fraternal or civic organization, merchandise and pictures or models of products or services incorporated in a window display, works of art which in no way identify a product, scoreboards on athletic fields, sound trucks or other moving advertising media while operated on a public rightof-way, official traffic signs or symbols, banners announcing civic celebrations or events of special interest, mounted house numbers under 12 inches in height, mounted nameplates or building address numbers under six square feet in area identifying the occupants or address of a building, or address or public information signs displayed for the convenience of the traveling public, when established by a public agency. SIGNS also do not include murals, color schemes, or facade patterns which by themselves would not convey a message about business or product without other sign elements present.¶

SIGN, ADVERTISING. A sign which directs attention to a business, service, event, or location not related to the premises where the sign is located.

SIGN, MAXIMUM HEIGHT OF. The vertical distance measured from the grade to the sign.¶

SIGN, MINIMUM HEIGHT OF. The vertical distance measured from the nearest finished grade to the lower limit of the sign.¶

SIGN STRUCTURE. The supports, uprights, bracing, and framework for a sign, including the sign area.

Commented [39]: Joseph Sathe - SP: Specialized

Commented [40]: Joseph Sathe - How does this conflict with "Nursing, Convalescence, and Retirement Homes" above? Also, I do not see where this appears again in the chapter

STREET, COLLECTOR. A street which collects and distributes the internal traffic within an area of a community such as a residential neighborhood or industrial district, and between arterial and local streets. It provides some access to abutting property.

STREET FRONTAGE. The proximity of a parcel of land to one or more streets. An interior lot has one **STREET FRONTAGE** and a corner lot has two **STREET FRONTAGES**.

STREET, LOCAL. A street of little or no continuity, designed to provide access to abutting property and leading into collector streets.

STRUCTURAL ALTERATION. Any change, other than incidental repairs, which would prolong or increase the life of the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

STRUCTURE. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground, including, but without limiting the generality of the foregoing, signs, billboards, retaining walls, or fences.

SWIMMING POOL. Any outdoor structure, basin, chamber, or tank containing an artificial body of water for swimming, diving, or recreational bathing used in connection with a residential dwelling and having a depth of more than 24 inches at any point and a surface area exceeding 150 square feet.

TOWER. A pole, spire, or structure, or any combination thereof, to which an antenna is attached, including supporting lines, wires, and braces.

TOWNHOUSE. A one-family dwelling unit horizontally attached to one or more similar dwelling units in a linear arrangement and structured on individual lots. Features of **TOWNHOUSES** are their private yards and private entrances. A **TOWNHOUSE** development normally includes common open space for athletic and recreational purposes. **TOWNHOUSES** by this definition do not include multiple units in a

TOXIC MATTER OR MATERIAL. Those materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

single structure such as triplexes, four-plexes, or apartment buildings.

TRAVEL TRAILER. A vehicular portable structure, built on a chassis, designed to be used as a temporary dwelling for travel, recreation, and vacation uses.

TRIANGLE. The triangular area defined as follows: beginning at the point of intersection of the rights-of-way of two intersecting streets or one intersecting street and one alley, thence 20 feet along one right-of-way line, thence diagonally to a point on the other right-of-way line 20 feet from the point of beginning, thence to the point of beginning.

UNLAWFUL SIGN. A sign which exists prior to or after the passage of this chapter or amendments thereto, which does not conform with the regulations of this chapter and is not an existing legal sign and is not a sign erected with a sign permit.

USE. The purpose or activity for which the land or buildings thereon is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of performance of that activity with respect to the performance standards of this chapter.

Deleted: advertising

Deleted: —TEMPORARY SIGN. Any sign which is erected or displayed with or without a permit for a specified period of time (such as banners, portable signs, searchlights, trucks, trailers, window signs, and the like).¶

Deleted: *USABLE OPEN SPACE.* The required portion of a lot at ground level, unoccupied by buildings, and available to all the occupants of the building. This space of minimum prescribed dimensions shall not be devoted to service driveways or off-street parking space or loading berths but shall be usable for greenery, recreational space, and other leisure activities normally carried on outdoors.

USE, ACCESSORY. A use which is:

(a) subordinate to and serves a principal building or principal use;

(b) subordinate in area, extent, and purpose to the principal structure or principal use as served; and

(c) located on the same lot as the principal structure or principal use served and except as otherwise expressly authorized by this chapter.

USE, CONDITIONAL. A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to public health, safety, or general welfare. After due consideration in each case of the impact of that use upon neighboring land, and the public need for the particular use at the particular location, the CONDITIONAL USE may or may not be granted.

<u>USE, INTERIM.</u> A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

USE, *INCOMPATIBLE*. A use which is contradictory, incongruent, or discordant with certain other uses.

USE, *NON-CONFORMING*. Any use of land, buildings, or structures lawfully existing at the time of adoption of this chapter which does not comply with all the regulations of this chapter or any amendments hereto governing the zoning district in which the use is located.

USE, *PERMITTED*. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards, if any, of the district or districts.

USE, *PRINCIPAL*. The main use of land or buildings, as distinguished from a subordinate or accessory use. A principal use may be permitted or conditional. Or interim?

UTILITY ENTRANCE. A passage or opening in a building which is not a public entrance as defined herein.

VERMIN. Pests or nuisance animals that spread diseases; destroy crops, livestock, or other property; e.g., rodents, insects.

VARIANCE. A modification or variation of the provisions of this chapter as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a **VARIANCE**.

WALL. The building facade area that defines the front of the building. The front is the continuous line of a building that connects side wall to side wall and faces one public right-of-way. For a multi-tenant building on a corner lot, the front is the continuous line of a building which faces either a public right-of-way or a private road in a planned unit development.

WAREHOUSING. The commercial storage of merchandise and personal property.

WHOLESALING. A business engaged in selling to retailers or jobbers rather than consumers.

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Deleted: A use, either public or private, which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district.

Commented [42]: Mary Tietjen - The last sentence seems to go beyond the definition.

Commented [43]: Mary Tietjen - I agree with adding a definition of Use, Interim. I suggest using the definition from state statute 472.3597: "A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it." Given the inherently temporary nature of interim uses, I think it would be unusual for one to be the "principal" use of a property.

Commented [NA44R43]: I think for the time it is occurring, it could be the principal use of the property.

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Commented [**45**]: Nancy Abts - Should "interim" be added to the list of potential principal uses, if it is adopted as a possibility elsewhere in the ordinance?

Commented [**46**]: Joseph Sathe - I suggest defining Use, Interim as a standalone section.

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Commented [47]: Joseph Sathe - Put in (parentheses)

Deleted: —WALL GRAPHICS. A sign which is painted directly on an exterior wall surface.¶
—WALL SIGN. A sign which is affixed to the exterior wall of a building and which is parallel to the building wall. A WALL SIGN does not project more than 12 inches from the surface to which it is attached, nor extend beyond the top of the parapet wall.¶

WORKSHOP. An accessory residential use for the creation of individual crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, handwoven articles, and related items. A workshop may be either an accessory use within the principal building or may be an accessory building on the property.

YARD. the horizontal distance between the principal structure and a lot line, as measured perpendicular to the lot line. Eaves are not to be considered part of the principal structure for the purpose of determining the location or extent of a yard.

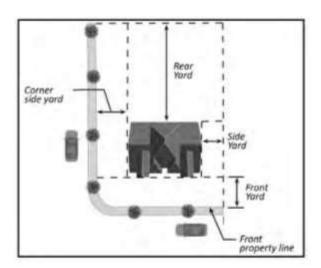


Figure 5: Illustration showing yard locations

YARD, FRONT. A yard extending along the full width of the front lot line between the side lot lines.

YARD, REAR. A yard extending along the full width of the rear lot line between the side lot lines.

YARD, SIDE. A yard extending along a side lot line from the front yard to the rear yard.

ZONING MAP. The map setting forth the boundaries of the zoning districts of the city, which map is a part of this chapter.

ZONING OFFICER. The Zoning Officer of the city as duly appointed by the City Council. (1997 Code, § 25.06) (Ord. passed 11-14-1994; Am. Ord. 2005-3, passed 4-11-2005; Am. Ord. 2017-3, passed 9-11-2017)

Deleted: WINDOW SIGN. A sign affixed to or inside of a window in view of the general public. This does not include merchandise on display.¶

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Deleted: An open space on the same zoning lot with a building or structure, which *YARD* is unoccupied and unobstructed. A *YARD* extends along a lot line and to a depth or width measured from the lot line specified in the *YARD* requirements for the zoning district

Deleted: in which the zoning lot is located. \P

■§ 153.010 SEPARABILITY.

It is hereby declared to be the intention of the City Council that the several provisions of this chapter are separable in accordance with the following.

- (A) If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, the judgment shall not affect any other provisions of this chapter not specifically included in that judgment.
- (B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building, or other structure, the judgment shall not affect the application of that provision to any other property, building, or structure not specifically included in that judgment.

(1997 Code, § 25.07) (Ord. passed 11-14-1994; Am. Ord. 2005-3, passed 4-11-2005)

ZONING DISTRICTS AND MAPS

§ 153.020 ZONING DISTRICTS ESTABLISHED.

The following zoning classifications are hereby established within the city:

- (A) PI, public institution district;
- (B) R-1, one- and two-family residential district;
- (C) R-2, multiple-family residential district;
- (D) EMX, Edge mixed-use district
- (E) CBD, central business district;
- (F) C-2, highway commercial district; including C-2 North and C-2 South districts and
- (G) M, manufacturing and industrial district.

(1997 Code, § 25.07) (Ord. passed 11-14-1994)

■§ 153.021 ZONING MAP ESTABLISHED.

The location and boundaries of the districts established by this text are hereby set forth on the zoning map entitled Zoning Map of the city, and is attached hereto as Appendix D.

(1997 Code, § 25.07) (Ord. passed 11-14-1994)

■§ 153.022 DISTRICT BOUNDARY INTERPRETATION.

- (A) The location and boundaries of each zoning district established by this chapter are as set forth in zoning district sections of this chapter and are shown on the official Zoning Map.
- (B) Where uncertainty exists as to the boundaries as shown on the official Zoning Map, the following rules will apply.
- (1) Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow those center lines.

Commented [51]: Nancy Abts - Update language?

Commented [52]: Joseph Sathe - Example: Crystal Code Section 500.11. Severability. If any section, subsection, sentence, clause, or phrase of this UDC is for any reason held to be invalid by a court of competent jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this UDC. The city council hereby declares that it would have adopted this UDC in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

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- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following those lot lines.
- (3) Boundaries indicated as approximately following city limits boundaries shall be construed as following those city limits boundaries.
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as parallel to or extensions of features indicated in § <u>153.131</u> of this code, regarding non-conforming lots of record, shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- (6) Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by § 153.131 of this code, regarding non-conforming lots of record, the Board of Appeals shall interpret the district boundaries.
- (7) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Board of Appeals may permit, as a special exemption, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(1997 Code, § 25.07) (Ord. passed 11-14-1994)

ZONING DISTRICTS; REQUIREMENTS AND USES

■§ 153.034 PUBLIC INSTITUTION DISTRICT, PI.

(A) *Intent*. The intent of this district is to provide for public buildings, facilities, and land areas which are owned, controlled, regulated, used or proposed to be used by the city for the purposes of serving the residents and the community members of the city.

(B) Permitted uses.

- (1) Municipal buildings and structures, including City Hall, Fire Department, Police Department, City or County Library, Public Services facilities, Community Center, recreation centers, lift stations, ice skating warming houses, water towers, and any other governmental office buildings or facilities;
 - (2) Public parks, playgrounds and athletic fields or ice skating rinks;
 - (3) Off-street parking areas, provided they are open to the general public;
- (4) Outdoor storage of equipment, landscaping materials, sand/salt materials or other public street improvement materials;
 - (5) Historical sites;
 - (6) Cellular telephone or communications towers and/or antennas;
 - (7) Commercial signage limited to billboards or any other governmental signage; and
 - (8) Any other uses determined by the city to be the same or similar type uses.

Field Code Changed

Field Code Changed

- (C) Conditional uses.
- (1) Religious institutions, such as chapels, temples, synagogues, and mosques limited to worship and related social events;
- (2) Outdoor recreation areas, such as golf courses, private/public swimming pools, and private community clubs;
 - (3) Cemeteries or memorial gardens; and
 - (4) Any other uses determined by the city to be the same or similar type uses.

(Ord. 2014-4, passed 12-8-2014)

■§ 153.035 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT, R-1.

- (A) *Intent.* To recognize fully or partially developed one- and two-family residential areas including supporting public and semi-public facilities, to provide for future development of a similar nature, and to protect the desired low intensity living environment from encroachment by conflicting land uses.
 - (B) Permitted uses.
- (1) One- and two-family detached dwellings, including manufactured homes, with an attached or detached private garage;
 - (2) Customary accessory uses incidental to the permitted residential uses, such as:
 - (a) Screen houses;
 - (b) Private recreational facilities such as swimming pools and tennis courts:
- (c) Rummage sales, provided no more than 4 sales are held per property per calendar year, each lasting no more than 3 consecutive days and that exchange or sale of merchandise is conducted inside the garage or one-half the required setback length from the street.
 - (3) Home occupations;
- (4) Licensed day care or residential facilities <u>permitted as single family residential uses per M.S. 462.357</u>;
 - (5) Essential structures and uses.
 - (C) Conditional uses.
 - (1) Public and semi-public facilities such as <u>religious institutions</u>, schools, and parks of a non-commercial nature; and
 - (2) Manufactured home parks, per M.S. 462.357.
 - (D) Lot requirements and standards. Refer to Appendix A of this chapter.

(1997 Code, § 25.08) (Ord. passed 11-14-1994)

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Commented [56]: Joseph Sathe - Crystal Section 515.25 includes Garage/Yard sales in "Permitted Temporary Uses and Structures".

I suggest not including rummage sales as home occupations.

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§ 153.036 HIGH-DENSITY RESIDENTIAL DISTRICT, R-2.

- (A) *Intent.* To recognize the demand for apartment, condominium, and multiple-family dwellings; to provide for these apartments upon fairly sizable tracts of land, thereby allowing increased design flexibility and a more compatible development pattern; and to permit these apartments at densities high enough to allow high quality development yet low enough to provide a desirable living environment for residents.
 - (B) Permitted uses.
 - (1) Multiple-family dwellings; and
 - (2) Customary accessory uses incidental to the permitted residential uses such as private garages and private recreational facilities such as swimming pools and tennis courts.
 - (C) Conditional uses.
 - (1) Essential service structures and uses;
- (2) Public and semi-public facilities such as <u>religious institutions</u>, schools, and parks of a non-commercial nature;
 - (3) Nursing, convalescent, and retirement homes; and
 - (4) Health care facilities, including hospitals and medical and dental clinics.

(5) Licensed day care or residential facilities permitted as multifamily residential uses per M.S. 462.357

(D)

(E) Lot requirements and standards. Refer to Appendix A of this chapter.

(1997 Code, § 25.08) (Ord. passed 11-14-1994)

§ 153.XXX Edge Mixed-Use District, EMX.

(A) Intent. The intent of this district is to accommodate uses that are predominantly residential in nature and mixed-use buildings with neighborhood-serving retail, entertainment, civic, institutional, and office uses in key ground-floor locations and residential uses between and above the nonresidential space. The ground level shall be pedestrian-oriented and shall promote the health and well-being of residents by encouraging physical activity, alternative transportation, and social interaction. Development in the district shall facilitate transition between commercial areas and nearby neighborhoods.

(B) Permitted Uses. Multi-family residential uses and limited commercial uses within mixed use buildings. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:

(1) All permitted uses in the Central Business District (CBD), provided that such uses are combined with other permitted or conditional uses when within a mixed-use building, and that the gross floor area occupied by any such single use shall not exceed the gross floor area of the ground floor.

(2) All Permitted Uses in the High Density Residential District (R-2).

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Commented [60]: Joseph Sathe - I suggest including some indication that this is the EMX district, and if so, use the full name: Edge Mixed Use.

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(C) Conditional Uses. Commercial uses. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:

- (1) Permitted Uses in the Central Business District (CBD) occupying more than the gross floor area of the ground floor when within a mixed use building;
- (2) Conditional uses in the Central Business District (CBD).
- (E) Lot requirements and standards. Refer to Appendix A of this chapter.
- (F) Building Performance Standards. Development shall be substantially compliant with the Architectural Design Guidelines for Osseo Business Districts, copies of which are available at City Hall, regarding Height, Setbacks/Building Siting, Fenestration, Rhythm/Continuity, Materials, Detailing, Lighting, Rear Entrances, and Parking. Substantial compliance shall be determined as part of § 153.153 Site and Building Plan Approval.
- (G) Site Performance Standards
- (1) Open Space. When public open space is provided on site in a manner consistent with that outlined in the Comprehensive Plan, a height bonus may be considered upon approval of the City Council. The intent of the bonus is to encourage the provision of public open space and amenities.
 - (2) Fencing. Requirements shall be the same as for the R2 District.
 - (3) Landscaping and Outdoor Storage and Screening. Requirements shall be the same as for the CBD.
 - (4) Off-street vehicular parking shall be provided in accordance with Appendix B: Off-Street Parking Space Requirements, with the following exceptions:
 - (a) One off-street parking space must be provided for each dwelling unit.
 - (b) No off-street parking is required for non-residential uses in the district unless such uses exceed 3,000 square feet of gross floor area in which case off-street parking must be provided for the floor area in excess of 3,000 square feet.
 - (c) Off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to not be visible from public streets or residential zoning districts.
 - (5) Bicycle Parking.
 - (a) Applicability. Bicycle parking shall be provided for all new commercial, industrial, community service use, and multifamily residential development [in the EMX District].
 - (b) Quantity of Spaces
 - i. The quantity of required bicycle parking spaces shall be as described in this subsection. In no case shall fewer than two (2) spaces be required.
 - unless otherwise specified, the number of bicycle parking spaces shall be at least 10% of the minimum required motor vehicle parking for the use, up to 30 bicycle parking spaces.
 - Multifamily residential development with 4 or more units shall provide 1 space per unit.

Deleted: with the exception of § 153.037(C)(8) Commercial businesses intending to sell or serve liquor as part of regular business and § 153.037(C)(9) Artisan manufacturing businesses;

Commented [62]: Mary Tietjen - Did the term "bonus" come from another Code? I'm not familiar with it in this context. Are there any objective standards for a "bonus"?

Deleted: Central Business District

Commented [64]: Nancy Abts - May apply here for EMX district only, or, upon Planning Commission & Council direction, may apply Citywide and be relocated to the 'Parking' section

- ii. Covered or enclosed bicycle parking. A minimum of 50% of the bicycle spaces shall be covered and/or enclosed (in lockers or a secure room) in any of the following situations:
 - a. When 10% or more of automobile parking is covered; or
 - b. If more than 10 bicycle parking spaces are required.
- (c) Bicycle Parking Standards. Each required bicycle parking space must be accessible without moving another bicycle and its placement shall not result in a bicycle obstructing a required walkway. Bicycle racks shall be permanently installed to the manufacturer's specifications, including the minimum recommended distance from other structures. In addition:
 - Bicycle parking facilities shall meet the following requirements:
 - a. Securely anchored to a hard, durable surface.
 - b. Located within 50 feet of the main building entrance.
 - c. Designed to provide direct access to a public right-of-way.
 - d. Dispersed for multiple entrances.
 - e. In a location that is visible to building occupants or from the main parking area.
 - f. Designed not to impede pedestrians along sidewalks or public rights-ofway.
 - g. Separated from motor vehicle parking areas by curbing or other similar physical barriers.
 - To the extent feasible, property owners are encouraged to conform to the Association of Pedestrian and Bicycle Professionals (APBP) Guidelines, copies of which are available at City Hall.
- iii. The public right-of-way may be utilized for bicycle parking when parking cannot be reasonably accommodated on the site and the location is convenient to the building's main entrance. The bicycle parking area in the right-of-way when bicycles are parked must leave a clear, unobstructed four-foot width of sidewalk if present and be approved by the Public Works Director. A right-of-way permit is required.
- (d) Alternative Compliance. The City may approve alternative compliance from the provisions of this Section, which may include, but need not be limited to, a reduction or deviation in the number, type, or location of the required bicycle parking. Considerations used in the determination to grant or deny alternative compliance may include, but are not limited to, existing site constraints, proximity to existing bicycle parking, and the nature of the proposed building or use.

- (A) Intent. The intent of this district is to accommodate central business type uses that include joint-use parking areas and business uses primarily oriented to the walking public.
 - (B) Permitted uses.
- (1) Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:

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Deleted: <#>Multifamily residential development with 4 or more units ¶

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- (a) Retail establishments such as grocery, hardware, drug, clothing, appliances, furniture stores, and restaurants;
- (b) Personal services such as laundry, barber, shoe repair, beauty salon, and photography studio;
- (c) Professional services such as medical clinics, dental clinics, law offices, and accounting offices;
 - (d) Finance, insurance, and real estate services;
 - (e) General commercial office space; and
 - (f) Repair services such as jewelry, radio, and television repair shops (not auto repair).
- (2) Public and semi-public facilities serving all or portions of the city, such as municipal offices, library, and post office;
 - (3) Apartments, if located above the street level in mixed use buildings;
 - (4) Essential service structures and uses; and
 - (5) Any other uses determined by the city to be the same or similar type uses.
- (C) *Conditional uses*. Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (1) Essential service structures and uses;
- (2) Entertainment and amusement services such as arcades, billiards, bowling alleys, lounges, clubs, and lodges;
 - (3) Private institutions (e.g., <u>religious institutions</u> and schools);
 - (4) Dry cleaning;
 - (5) Blueprint and photocopying establishments;
 - (6) Pet shops;
- (7) Seasonal businesses, including locations where Transient Merchants conduct their transactions;
- (8) Commercial businesses such as on- or off-sale liquor establishments (taverns, pubs) and restaurants intending to sell or serve liquor as part of regular business;
 - (9) Artisan manufacturing businesses;

(10) Professional personal services businesses (e.g., massage therapy, body art establishments, etc), when operating without a license from the City of Osseo, Hennepin County, or the State of Minnesota; and

- (10) Any other uses determined by the city to be the same or similar type uses.
- (D) Lot requirements and standards. Refer to Appendix A of this chapter.

Commented [**65**]: Joseph Sathe - Should we change this to "mixed-use" now that mixed-use is defined?

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Commented [66]: Nancy Abts - Listed under both Permitted and Conditional Uses—what is the intent? I suggest taking out this reference—it's not a "Commercial establishment"

Commented [67]: Joseph Sathe - Unless there needs to be some differentiation between governmentally owner and privately owed essential structure services – as outlined in 153.007

Commented [NA68R67]: 153.007 says that Governmentally owned essential services are exempt from the application of this chapter—so I assume both instances are referring to privately owned essential services.

Commented [**69]:** Joseph Sathe - Does this conflict with the "Convalescent, Nursing, and Retirement" definition

Deleted:, convalescent housing, infirmaries, nurseries,

Commented [**70**]: Joseph Sathe - Transient Merchant is not defined above and may be an antiquated term.

Commented [71]: Mary Tietjen - But I believe it's defined elsewhere in city code.

(1997 Code, § 25.08) (Ord. passed 11-14-1994; Am. Ord. 2005-3, passed 4-11-2005; Am. Ord. 2010-3, passed 6-28-2010; Am. Ord. 2017-3, passed 9-11-2017)

■§ 153.038 HIGHWAY COMMERCIAL DISTRICT, C-2.

- (A) Highway Commercial District, C-2 North.
- (1) *Intent*. The intent of this district is to accommodate service type business uses primarily oriented to the driving public with needed parking facilities provided on site by the owner.
- (2) *Permitted uses.* Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (a) Uses permitted within the <u>CBD</u>;
 - (b) Auto accessory stores; and
 - (c) Any other uses determined by the city to be the same or similar type uses.
- (3) *Conditional uses*. Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (a) Conditional uses permitted in the CBD;
- (b) Major auto service stations that include facilities for chassis and gear lubricating, and car washing;
- (c) Garages for the storage and repair of vehicles including body repair and painting, but not including vehicle wrecking yards;
 - (d) Live bait stores;
- (e) Outdoor motor vehicle sales, recreational vehicle sales, truck sales, and motorcycle sales, which meet all of the following requirements:
 - 1. Minimum lot size of one acre;
 - 2. Minimum building size must be at least 10% of lot size;
 - 3. Business must have own building separate from any other use on the property;
 - 4. Area used for sales must be separate and in addition to off-street parking area; and
- 5. All vehicle repair and maintenance must take place within a completely enclosed building. Repaired vehicles or vehicles waiting to be repaired shall be considered storage and must be within a screened or enclosed area.
- (f) Indoor motor vehicle, recreational vehicle, truck and motorcycle sales, which meet the following requirement:
- 1. All vehicle repair and maintenance must take place within a completely enclosed building. Repaired vehicles or vehicles waiting to be repaired shall be considered storage and must be within a screened or enclosed area.

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Commented [73]: Joseph Sathe - Change to "requirement" or split the subsequent section into two sections.

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- (g) Mortuaries;
- (h) Drive in businesses which meet the following requirement:
 - 1. Minimum lot size of .5 acre:
- (i) Automobile detailing and/or washing; and
- (i) Any other uses determined by the city to be the same or similar type uses.
- (4) Lot requirements and standards. Refer to Appendix A of this chapter.
- (B) Highway Commercial District, C-2 South.
- (1) *Intent*. The intent of this district is to accommodate service type business uses primarily oriented to the driving public with needed parking facilities provided on site by the owner.
- (2) *Permitted uses.* Commercial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (a) Uses permitted within the <u>Highway Commercial C-2 North District</u>;
 - (3) Conditional uses:
 - (a) Conditional uses permitted in the Highway Commercial C-2 North District;
 - (b) Warehousing and shipping of warehoused goods; and
 - (c) Any other uses determined by the city to be the same or similar type uses.
 - (4) Lot requirements and standards. Refer to Appendix A of this chapter.

(1997 Code, §25.08) (Ord. passed 11-14-1994; Am. Ord. 2005-3, passed 4-11-2005; Am. Ord. 2008-3, passed 2-11-2008; Am. Ord. 2010-3, passed 6-28-2010; Am. Ord. 2014-1, passed 2-10-2014)

- (A) *Intent*. The intent of this district is to provide land in proximity to major thoroughfares for the development of certain manufacturing and industrial activities that will strengthen the local employment opportunity and tax base in the city.
- (B) *Permitted uses*. Manufacturing and industrial establishments. In order to illustrate the types of establishments which this division is designed to cover, the following examples are set forth. These examples are not meant to illustrate the only establishments intended to be covered:
 - (1) Uses permitted within the C-2, highway commercial district;
- (2) Fabricating, manufacturing, production, processing, and storage of material goods and products, subject to the performance standards set forth in § <u>153.050</u> of this code and as set forth in the rules and regulations of the Minnesota Pollution Control Agency;
 - (3) Motor freight terminals;
 - (4) Research, electrical and metallurgical, but not chemical;

Deleted:, auto repair and service.

Commented [76]: Nancy Abts - Simplify text by simply referring to C2 North requirements

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- (b) Major auto service stations that include facilities for chassis and gear lubricating, and car washing:
 (c) Garages for the storage and repair of vehicles
- including body repair and painting, but not including vehicle wrecking yards;
 - (d) Live bait stores;¶
- (e) Outdoor motor vehicle sales, recreational vehicle sales, truck sales, and motorcycle sales, which meet all of the following requirements:¶
 - 1. Minimum lot size of one acre;¶
- 2. Minimum building size must be at least 10% of lot size:¶
- Business must have own building and property;

 Area used for sales must be separate and in

addition to off street parking area; and

- All vehicle repair and maintenance must take place within a completely enclosed building. Repaired vehicles or vehicles waiting to be repaired shall be considered storage and must be within a screened or enclosed area.
- (f) Indoor motor vehicle, recreational vehicle, truck, and motorcycle sales; \P
- (g) Mortuaries;
- (h) Drive in businesses, auto repair and service, which set the following requirement:¶
- 1. Minimum lot size of .5 acre:¶
- (i) Automobile detailing and/or washin

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- (5) Public uses and public utility facilities; and
- (6) Any other uses determined by the city to be the same or similar type uses.
- (C) Conditional uses.
- (1) Conditional uses permitted within the C-2, highway commercial district, with the exception of § <u>153.038</u>(C)(5) motor vehicle, recreational vehicle, truck, and motorcycle sales;
 - (2) Manufacturing and sale of concrete products;
- (3) Manufacturing of miscellaneous building materials (such as, prefabricated housing, wallboard, partitions, and panels);
 - (4) Metal fabrication;
 - (5) Storage of the following:
 - (a) Coal and gas; or
 - (b) Auto wrecking, junk, and salvage.
 - (6) Sexually oriented businesses;
- (7) Uses not specifically set forth herein which in the opinion of the City Council would be compatible with the area in which located and which would not constitute a public nuisance, and which would not materially affect sewer capacity.
- (D) Lot requirements and standards. Refer to Appendix A of this chapter.

(1997 Code, § 25.08) (Ord. passed 11-14-1994; Am. Ord. 2006-4, passed 5-8-2006; Am. Ord. 2008-3, passed 2-11-2008; Am. Ord. 2010-3, passed 6-28-2010)

GENERAL REQUIREMENTS AND DEVELOPMENT STANDARDS

■§ 153.050 SPECIAL REGULATIONS; PERFORMANCE STANDARDS.

Every use permitted by this chapter shall be so established and maintained as to comply with the provisions of the following performance standards.

- (A) Residual features. No activity or operation shall be established or maintained which by reason of its nature or manner of operation will cause the emission of noise, odor, toxic or noxious fumes, gases, smoke, dust, and particulate matter in concentrations so as to be detrimental to or endanger the public health, welfare, comfort, and safety or cause injury to property or business.
- (B) *Glare*. Direct or reflected glare, such as from floodlights, spotlights, or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line. Any lighting used for exterior illumination (including off-street parking areas) shall be directed away from adjacent properties.
- (C) *Vibration*. No activity shall at any time cause earth vibrations perceptible beyond the limits of the site on which the use is located. Vibrations created during the process of construction are exempt from this standard.

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§ 153.040 PROVIDING FOR A MORATORIUM ON GRANTING CONDITIONAL USE PERMITS FOR A USE ASSOCIATED WITH AUTOMOTIVE REPAIR OR OUTDOOR STORAGE OR SALES OF RECREATIONAL VEHICLES OR TRAILERS, TRUCKS OR AUTOMOBILES IN THE HIGHWAY COMMERCIAL DISTRICT (C-2) AND IN THE MANUFACTURING AND INDUSTRIAL DISTRICT (M).¶

- (A) Authority. Pursuant to M.S. § 462.355, Subd. 4, the city is authorized to establish interim ordinances to regulate, restrict or prohibit any use or development in all or part of the city while the city is conducting studies, or has authorized a study to be conducted, or has scheduled a hearing to consider adoption or amendment of the comprehensive plan or official zoning controls. In furtherance of this statutory authority, the city has adopted Chapter 153, the zoning ordinance, including § 153.152 governing amendment of the zoning ordinance. The city declares that this interim section is adopted pursuant to M.S. § 462.355, Subd. 4, and the applicable provisions of Osseo Code of Ordinances, Chapter 153.¶
- (B) Findings and purpose. ¶
- (1) The City Council is concerned about the effects of conditional uses in the Highway Commercial District (C-2) and in the Manufacturing and Industrial District (M), especially as certain conditional uses are incompatible with the design and use of permitted uses in these districts and may detract from the desirability of these districts as places to establish businesses that are permitted uses in these districts. The City Council is also concerned that certain conditional uses may negatively affect the elimination of blighted properties. The City Council is also concerned that certain conditional uses may negatively impact adjoining residential districts by the creation or allowing of night lighting, noise and outside storage of vehicles and other business property.
- (2) The City Council is currently studying a master plan for redevelopment in the city and is concurrently studying changes to the comprehensive plan. The City Council is interested in promoting the economic vitality of the Highway Commercial District and the Manufacturing and Industrial District. Several sites are currently available for new businesses within the study area. The City Council is concerned that new conditional uses in these districts could be in conflict with changes to the comprehensive plan and could negatively affect existing and future commercial development in these districts.
- (3) As a result of the important land use and zoning issues cited above, the city, through its Planning Commission, will conduct studies to consider possible amendments to the comprehensive plan or official zoning controls to address these issues. The City Council finds that this interim section should be adopted to protect the planning process and the public health, safety, aesthetics, economic viability and general welfare of the city.
- (C) Zoning study. The Highway Commercial District (C-2) and the Manufacturing and Industrial District (M), as shown on the City of Osseo Zoning Map (§ 153.021, Appendix D), is hereby declared to be an interim zoning

- (D) *Explosives*. Any use requiring the storage, utilization, or manufacturing of products which should decompose by detonation shall be located not less than 400 feet from any residential district. This standard shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or commercial purposes.
- (E) Waste material. In commercial or industrial districts, without first having received a permit to do so from the city, liquid wastes containing any organic or toxic matter shall not be washed into the public sanitary sewer system or storm sewer system. If this permit is not granted, a method of disposal shall be devised which will not require continuous land acquisition for permanent operation and will not cause a detrimental effect to adjacent land. Should the waste be of solid form rather than fluid, it shall be stored within a completely enclosed structure or contained in a closed container designed for that purpose. Such a waste storage structure or container shall be so located and fenced as to be removed from public view. In all districts, all waste material, debris, refuse, garbage, and materials not currently in use for construction or otherwise regulated herein, shall be kept in an enclosed building or property and contained in a closed container designed for that purpose. The owner of vacant land shall be responsible for keeping that vacant land free of waste material and noxious weeds.
- (F) Radiation and electrical emissions. No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation at any point of any equipment including but not limited to radio and television reception other than that of the creator of the disturbance.
- (G) *Traffic control*. The traffic generated by any use shall be channeled and controlled in a manner that will avoid congestion on public streets, safety hazards, and excessive traffic through residential areas. Traffic into and out of all commercial and industrial uses and areas shall in all cases be forward moving with no backing onto streets or pedestrian ways. No access drive to any lot shall be located within 30 feet of any two intersecting street right-of-way lines.
- (H) Land slope. No building or structure shall be constructed on slopes of 18% or more in grade.

(1997 Code, § 25.08) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.051 LAND ALTERATION; EROSION CONTROL.

- (A) Land alteration restricted; exceptions. Land alteration is the process of changing the existing landscape by excavating, filling, or grading. Subject to the exceptions set forth below, no land shall be altered, excavated, filled, or graded and no vegetation shall be removed without first obtaining a permit from the city. The following exceptions shall be allowed:
- (1) A fill less than one foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than three feet in depth, not intended to support structures, which does not exceed 25 cubic yards and does not obstruct a drainage course; and other exceptions as are listed the State Building Code;
- (2) Construction of buildings for which a permit has been applied for and issued, provided the contemplated excavation or filling operation was sufficiently described at the time of building permit application;

Field Code Changed

Commented [82]: Nancy Abts - Staff suggest removing this exception, but we could also reduce this number to 25, 10, or 5 cubic yards

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Commented [83]: Joseph Sathe - Maple Grove, Woodbury, and Richfield all exempt less than 50 cubic yards.

I found that MN Rules 6120.3300 subd. 4 (B) imposes requirements on local permitting authorities in shoreland areas if more than 50 cubic yards of material will be moved. This may be how 50 cubic yards was established.

- (3) Excavations or fills by state, county, or city authorities in connection with the construction or maintenance of roads, highways, parks, or utilities or on slope or utility easements, provided the activity is conducted within public rights-of-way or easements and has obtained any necessary Right of Way permits for the work;
- (4) Curb cuts, utility hook-ups, or street openings for which another permit is required from the city; or
 - (5) Grading plans approved as part of plat approvals.
- (B) Requirements. Issuance of a grading permit shall be made subject to the following minimum requirements, and other requirements as the City Council may specify to protect the public interest:
- (1) Setback from adjacent property. All operations shall be conducted within the property lines. Grading that extends over the property lines shall require easements from adjacent property owners. Grading within the rights-of-way shall be by city permit;
- (2) *Excavation*. It shall be unlawful for any person to dig and leave open, unfenced, unbarricaded, or uncovered, any pit, quarry, hole, or excavation, including basements, wells, septic tanks, or cesspools;
- (3) *Restoration*. Upon completion of excavation or filling operations, the disturbed area shall be restored with topsoil or other approved cover material and shall be reseeded to establish approved vegetation;
 - (4) Finished grades. Finished grades shall not adversely affect adjacent properties;
- (5) *Drainage*. Drainage facilities shall be provided to effectively divert or convey storm water runoff and follow the requirements of § 153.061;
- (6) Fire, vernin, wind, and hauling control. Provisions for effectively controlling fire, vernin, and dispersal of material by wind or by hauling to and from the site, and for general maintenance of the site shall be made; and
- (7) Permit period. The excavation or filling permit shall run for six months unless a greater period is requested and approved by the City Council.
 - (C) Erosion control.
 - (1) Criteria. Erosion and sediment control plans shall comply with the following criteria:
- (a) Before a construction activity begins where soil will be disturbed, that requires a permit, an erosion control plan shall be submitted to the city for approval.
- (b) All development shall conform to the natural site topography and soil conditions to control runoff in order to create the best potential for preventing soil erosion.
- (c) All erosion and sediment control measures shall be installed prior to land disturbance activities, and shall not be removed without city approval. The developer or land owner is responsible for removal and disposal of erosion control devices.

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Commented [84]: Nancy Abts - I prefer a broader term, to include insects and other animal species (e.g., raccoons, opossums, etc)

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Commented [85]: Mary Tietjen - Do you want this to be subject to Council approval?

Commented [NA86R85]: It seems like a reasonable requirement. I wouldn't want the permit to be open indefinitely. I guess we could also just require a new permit every 6 months, with no option for extension.

- (d) Land disturbance activities shall be phased when possible to minimize the amount of soil exposed to erosion at any one time.
- (e) Erosion and sediment control measures shall be consistent with approved best management practices and shall be sufficient to retain sediment on-site.
- (f) All areas disturbed by excavation and backfilling operations, shall have the turf reestablished after the completion of the work in that area. All seeded areas shall be fertilized, mulched, and secured and stabilized as necessary for seed retention.
- (g) At the close of the construction season, the entire site must be stabilized, using a heavy mulch layer, or another method that does not require germination to control erosion.
- (2) *Clean-up*. The developer or land owner shall maintain a neat and orderly site and daily clean, on and off site, dirt and debris from the street and the surrounding area which has resulted from construction work by the developer or land owner, its agents or assigns.
- (3) *Maintenance*. The developer or land owner shall be responsible for proper installation, operation, and maintenance of all stormwater pollution controls and soil stabilization measures in conformance with approved best management practices. The developer or land owner is responsible for the operation and maintenance of temporary erosion prevention and sediment control best management practices for the duration of the construction work at the site.
- (4) *Notification*. If a construction site or buildable lot is sold <u>before work is completed</u>, the owner is required to notify the buyer of the erosion control, clean-up, and landscaping requirements.
- (5) *Landscaping*. The developer shall provide for the installation of landscaping in accordance with the landscape plan approved by the city. The developer shall sod the drainage swales. All trees, grass, and sod shall be warranted to be alive, or of good quality and disease-free at installation. All trees shall be warranted for 12 months after planting.
- (6) *Noncompliance*. If the developer or land owner does not comply with the erosion control plan the city may take action as it deems appropriate to control erosion at the developer's or land owner's expense. The city will endeavor to notify the developer or land owner in advance of any action, but failure of the city to do so will not affect the developer's or land owner's and city's rights and obligations hereunder.
- (7) Additional rules apply. During construction and until permanent cover is established, any land alteration that exceeds an area of 43,560 square feet (one acre) shall require compliance with the rules and procedures of the Watershed Management Commission having jurisdiction.

(1997 Code, § 25.08) (Ord. passed 11-14-1994; Am. Ord. 2012-8, passed 5-29-2012) Penalty, see § 10.99

(A) *Purpose*. It is the intent and desire of the city to protect, preserve, and enhance the natural environment and beauty of the city by encouraging the resourceful and prudent development of wooded areas, and with respect to specific site development to retain, as far as practical, substantial tree stands which can be incorporated into the development. No clear cutting of woodland areas shall be permitted.

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- (B) Tree inventory and landscape plan required.
- (1) The developer of any property with wooded areas shall complete a tree inventory survey showing all significant trees with their respective locations on the site along with the species names and condition of trees.
- (2) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.
- **SIGNIFICANT TREE.** A deciduous tree that is 12 inches or larger in diameter, or a coniferous tree seven inches or larger in diameter.
- (C) Replacement guidelines. Tree removal for construction of public and or private improvements shall be on a proportionate basis. The proportion of tree replacement shall be 50% replacement per caliper inches lost of all significant trees removed from the development or lot in question.
- (1) Once the amount of tree replacement has been determined, the owner will be required to submit a planting plan detailing the location, type, and size of trees to be replaced. The minimum size of trees which shall be given credit for tree replacement are as follows:
- (a) Deciduous trees: two and one-half inches in diameter as measured six inches above ground; and
 - (b) Coniferous trees: four feet in height.
 - (2) Trees designated for replacement shall be of similar variety to trees which are removed.
- (D) *Performance bond*. The city shall require the owner to provide a performance bond in the form of cash, corporation surety bond, approved letter of credit, or other surety satisfactory to the city to guarantee that the required trees to be replaced are done according to this chapter. The performance bond shall be furnished by the developer prior to obtaining a building permit that is equal to the amount of the required landscaping to be installed. The performance bond shall be held by the city and must cover one calendar year subsequent to the installation of the landscaping and must be conditioned upon complete and satisfactory implementation of the approved landscape plan.

(1997 Code, § 25.08) (Ord. passed 11-14-1994) Penalty, see § 10.99

📮 § 153.053 BUILDING MATERIAL REGULATIONS.

- (A) *Purpose*. The purpose of this section is to assure that buildings in commercial and industrial areas of the city will be of high quality in both visual and functional terms. To that end, this section identifies permitted building materials which are durable and long-lasting and which generally present a more attractive visual appearance than less durable materials.
- (B) Application. The provisions of this section shall apply to all new structures including additions or remodeling and to all new developments within all zoned districts within the city.
- (C) Exterior elevation. Exterior elevation drawings of the proposed structure must be submitted which will accurately indicate the height, size, design, and appearance of all elevations of the proposed structure. A description of the construction materials to be used must also be submitted.

- (D) Architectural design. The exterior architectural appearance of the proposed structure shall not be so at variance with the exterior architectural appearance of existing structures within the immediate area, or with the intended character of the applicable zoning districts, taking into consideration building materials, size, shape, and heights, so as to cause an adverse impact upon property values in the immediate area, or the city as a whole, or adversely affect the public health, safety, and general welfare of the portion of the city in which the property is located or the city as a whole. All additions or remodeling shall be compatible in scale, material, and massing.
- (E) *Permitted materials*. Structural systems of all buildings shall be as required by the State Building Code.
- (1) Exterior building materials shall not be so at variance with the exterior materials of existing structures within the immediate area or the city as a whole as to adversely impact the property values in the affected area or the city as a whole, or adversely affect the public health, safety, and general welfare.
- (2) Exterior building finishes shall consist of materials comparable in grade and quality to the following:
 - (a) Brick;
 - (b) Natural stone;
- (c) Precast concrete units and concrete block, provided that surfaces are molded, serrated, or treated with a textured material in order to give the wall surface a three-dimensional character;
- (d) Wood, provided surfaces are finished for exterior use and only woods of proven exterior durability are used, such as cedar, redwood, and cypress;
- (e) Fiberglass and aluminum (non-structural, non-load bearing), provided these panels are factory-fabricated and finished with a permanent durable non-fade surface and their fasteners are of a corrosion-resistant design; and provided further that no more than one-third of the wall surface abutting a public street, or adjacent to a residential or public area, consists of this type of panels. The requirement of no more than one-third of the wall surface being covered by the aforementioned materials may be permitted if it can be shown that the building is screened by other means such as berming, plantings, or other proposals that may be submitted by the builder; or
 - (f) Glass curtain wall panels.
 - (F) Prohibited materials.
- (1) Face materials which rapidly deteriorate or become unsightly, such as galvanized metal, unfinished structural clay tile, and metal panels not factory finished with a permanent surface;
 - (2) Buildings comprised exclusively of metal;
- Sheet metal, plastic, or fiberglass siding, unless that siding is a component of a factory fabricated and finished panel.

(1997 Code, § 25.08) (Ord. passed 11-14-1994) Penalty, see § 10.99

Deleted: (3) (a) Pole buildings, defined as follows. ¶
(b) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning. ¶

POLE BUILDING. Any building using wood or metal poles as a principal structural support where those supports are not affixed to a floor slab but inserted directly into the ground to achieve alignment and bearing capability.

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§ 153.054 OUTSIDE STORAGE AND SCREENING.

All material and equipment shall be stored within a building or fully screened so as to not be visible from adjoining properties. Any such screening method, whether a physical structure or landscaping, shall reduce visibility in a manner that restricts vision of the object being screened. Physical structures, such as fences, shall be constructed in a style that is architecturally compatible with the primary structure. All screening methods shall be approved by the Zoning Official. Screening is not required in the following instances:

- (A) Construction and landscaping materials and equipment temporarily being used on the premises (limited to a duration of 14 days or the length of an active Building or Excavation permit);
- (B) Off-street parking facilities, except as otherwise herein regulated, and except in residential districts where any off-street parking area containing over six spaces may be required to be screened; and
- (C) In commercial districts, merchandise of the type customarily displayed outdoors for retail sale may be so displayed beyond the principal structure without screening, provided that in no event shall the unscreened outside display area:
 - (1) Exceed 5% of the ground floor area of the principal structure;
 - (2) Impede normal pedestrian or vehicular traffic; and
- (3) CBD businesses may utilize public right-of-way for outside display areas as long as it adheres to all requirements of this section, and:
 - (a) Display areas must be approved by the Zoning Official; and
 - (b) Merchandise display is only allowed during business hours.

(1997 Code, § 25.08) (Ord. passed 11-14-1994; Am. Ord. 2008-3, passed 2-11-2008) Penalty, see § 10.99

§ 153.055 CONSTRUCTION STANDARDS.

- (A) All structures permitted in all zoning districts shall be constructed in accordance with the State Building Code and shall be constructed with a floating four-inch, or greater, concrete slab floor throughout the structure or with concrete frost footings and foundations, as specified by the State Building Code, along the entire perimeter of the structure. All structures in the zoning districts set forth shall possess wall and ceiling joist construction consisting of framing materials of at least one and one-half inch by three and one-half inch dimensions. Pole-type construction, with or without frost footings and foundations and with or without metal exterior walls or metal roofs, shall not be permitted.
- (B) Structures to be utilized for one-family inhabitation in allowable districts, as set forth by this chapter, shall have a minimum overall building width of 24 feet and shall have a minimum roof slope ratio of 4:12 (four-inch rise to 12-inch run).
- (C) All other structures to be built in any zoning district shall comply with all requirements as described in this chapter and the State Building Code.

Deleted: —(B)—Agricultural equipment and materials if these are being used or intended for use on the premises;

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Commented [90]: Joseph Sathe - EMX use too?

Field Code Changed

Commented [91]: Nancy Abts - This seems to duplicate Chapter 150: Building Regulations

Commented [92]: Joseph Sathe - Do A and B provide additional requirements, such as the one-half inch by three and one-half inch framing materials?

Deleted: (PI, R-1, R-2, EMX, CBD, C-2N, C-2S, and M)

Commented [NA95]: According to Metro West, this section duplicates content covered in the State Building Code. It could be removed.

Commented [96]: Nancy Abts - 62 3rd Ave NW is ~23 ft wide, as is 108 Broadway Street East

Commented [NA97R96]: A smaller minimum width—or no minimum width at all?—could be considered. The building code otherwise regulates the minimum size of rooms within a structure—but not the width of the overall structure itself.

Commented [98]: Joseph Sathe - Assuming they were built before the requirement was enacted then they would be considered a "non-conforming" use.

Commented [99]: Mary Tietjen - I agree with Joe, as long as the width was permissible at the time of enactment.

Field Code Changed

(A) General Provisions.

- (1) Small accessory structures such as arbors, benches, doghouses, playsets, garden decorations, pergolas, and 'Little Free Libraries' are exempt from the provisions of this subsection, but cannot be located in public rights-of-way without an approved permit for such occupancy.
- (2) Tents, play houses, or similar structures shall not be used as temporary or permanent dwelling units, but may be used for recreational purposes.
- (3) Any accessory structure used for the parking or storage of motor vehicles, such as a garage or carport, shall have a floor constructed of poured concrete in accordance with standards approved by the building official.
- (4) Accessory structures shall only be constructed concurrent with or after the construction of the principal building on the same site.
- (5) Uses and structures that are accessory to a conditional principal use shall be permitted in accordance with this subsection, without requiring a conditional use permit amendment, unless specifically required as a condition of the conditional use permit approval.

(B) Regulations. Accessory buildings and structures shall be subject to the following regulations.

- (1) Accessory buildings and structures attached to or part of the principal building shall maintain the same setbacks as required for the principal building.
- (2) Except for private garages, no accessory building shall exceed ten feet in height or 200 square feet in floor area, nor shall accessory structures exceed ten feet in height or 150 square feet in floor area in R-1 and R-2 zoning districts, as set forth in the table below.

(1997 Code, § 25.08)

Accessory Structures				
Zoning District	Maximum Height, in Feet	Maximum Floor Area, in Square Feet		
R-1 & R-2	10	150		
Other Districts,	15	200		

(1997 Code, Ch. 25, Table 2)

(3) No detached accessory building shall be erected or moved within five feet of the principal structure.

Deleted: (6) Table XX lists the accessory uses allowed within all zoning districts. If an application is submitted for a use of structure that is not listed in Table XX, the zoning administrator is authorized to classify the new or unlisted use or structure, with consultation from appropriate city departments, into an existing use or structure type that most closely fits the new or unlisted use. If no similar use determination can be made, the zoning administrator shall refer the use to the planning commission, who may initiate an amendment to this chapter to clarify where and how the use shall be permitted. ¶

Deleted: Residential districts

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Commented [102]: Nancy Abts - I'm not sure if the residential/commercial district distinction/category is worth maintaining

Commented [103]: Joseph Sathe - The decision would then need to be which current regulation to adopt in regards to maximum height and maximum floor area.

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- (4) A maximum of one accessory structure is permitted per lot, including but not limited to storage sheds and yard barns, but not including garages.
- (5) Motor Fuel Stations. For motor fuel stations, the setback of any overhead canopy or weather protection, freestanding or projecting from a building, shall not be less than 15 feet from the street right-of-way line, nor less than 20 feet from an adjacent property line. The distance of the setback shall be measured from the roof line of the structure to the property line.
- Private garages. The maximum capacity of a private garage shall not exceed a total of three passenger vehicles in the R-1 District or two passenger vehicles per dwelling unit in the R-2 District. The maximum aggregate floor space of all private garages on a single lot shall be 1,000 square feet. The maximum building height for private garages shall be 15 feet.

(1997 Code, § 25.08)

(Ord. passed 11-14-1994; Am. Ord. 2005-5, passed 8-8-2005) Penalty, see § 10.99

■§ 153.057 LANDSCAPING.

- (A) Purpose and objectives.
- (1) The primary purpose of this section is to establish minimum requirements and standards relative to landscaping, buffering, and screening to be implemented concurrently with site plans approved by the city. The standards and criteria shall be used by city staff and the Planning Commission in the review and evaluation of those plans and development proposals.
- (2) The objectives of these requirements are to establish and maintain forestation of the city; to provide appropriate ground cover vegetation for controlled soil erosion; to enhance, when necessary, the natural environment, particularly in instances where the natural environment is disturbed during the course of development; and to establish standards for utilization of natural materials to achieve desired screening and buffering.
- (B) *Minimum standards*. This section sets forth minimum requirements of landscaping and limitations to assure that the result is consistent with reasonable maintenance requirements on a long-term basis and to assure that the results provide an aesthetic urban environment.
 - (1) CBD, central business district and EMX, Edge Mixed Use District.
- (a) One tree for every 1,000 square feet of total building area. If landscaping cannot be accommodated on site the City Council will require the plantings to be placed in a City Park or city right-of-way. Placement of this landscaping shall be approved by the City Council.
- (b) Off-street parking areas in the CBD shall be demarcated or defined so as to separate cars from pedestrian walkways and minimize the impact on the urban fabric of large expanses of asphalt and automobiles. This demarcation may be accomplished by the use of low walls, landscaping, or other combinations consistent with the city's Architectural Design Guidelines. Parking areas that face or abut a residentially zoned area shall be screened. This screening can be accomplished by an earth berm with shrub plantings, by hedge with various deciduous and coniferous trees, or by other combinations approved by the city.

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Deleted: Commercial and industrial districts. Accessory buildings and structures in CBD, C-2N, C2-S, and M zoning districts shall be subject to the following regulation:

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Commented [104]: Nancy Abts - This actually seems to be about motor fuel stations, not Commercial and industrial districts.

Commented [105]: Joseph Sathe - If private garages are allowed in CBD; C-2s; and M, then leaving this distinction in makes sense when searching for residential and commercial differences.

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Commented [NA106]: It would probably be a good idea to exempt multi-family buildings from this requirement. I'm not sure the best way to do that.

Field Code Changed

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Commented [107]: Joseph Sathe - If this is the name of the new district, it should be established earlier in the section.

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- (c) Loading docks and loading berths that face a residentially zoned area shall be screened so as not to be seen from the residential area. Various deciduous and coniferous trees or fencing approved by the city may be used as the screening device.
- (d) All trash and trash handling equipment shall be stored within the principal structure, within an attached structure accessible from within the principal structure, or totally screened from eye-level view from public streets and adjacent residential properties. If accessory structures are proposed, they shall be constructed of the same building material as the principal structure.
- (e) Light from automobile headlights and other sources shall be screened whenever it may be directed onto adjacent residential windows.
 - (2) C-2N & C-2S, highway commercial districts.
- (a) One tree for every 1,000 square feet of total building floor area or one tree for every 50 feet of site perimeter, whichever is greater.
- (b) The light from automobile headlights and other sources shall be screened whenever it may be directed onto adjacent residential windows.
- (c) Loading docks and loading berths that face a residentially zoned area shall be screened so as not to be seen from the residential area. Various deciduous and coniferous trees or fencing approved by the Planning Commission may be used as the screening device.
- (d) Parking lots that serve a highway business use or health care use that face or abut a residentially zoned area shall be screened so as to minimize the visual impact of the large expanses of asphalt and automobiles. This screening can be accomplished by an earth berm with shrub plantings or by a hedge with various deciduous and coniferous trees or by other combinations approved by the city.
- (e) Trees planted to satisfy the requirements of divisions (B)(2)(b), (B)(2)(c), or (B)(2)(d) above, will not be counted towards the requirement of one tree per 1,000 square feet of building or one tree per 50 feet of site perimeter unless otherwise approved by the city.
- (f) All trash and trash handling equipment shall be stored within the principal structure, within an attached structure accessible from within the principal structure, or totally screened from eye-level view from public streets and adjacent residential properties. If accessory structures are proposed, they shall be constructed of the same building material as the principal structure.
 - (3) M, manufacturing and industrial district.
 - (a) One tree per 1,000 square feet of gross building floor area.
- (b) Where industrial zoned land is adjacent to or across the street from property zoned for residential development, that industry shall provide screening as follows.
- 1. Loading docks and loading berths that face a residentially zoned area shall be screened so as not to be seen from the residential area. Various deciduous and coniferous trees or fencing approved by the city may be used as the screening device.

Commented [**109**]: Joseph Sathe - If we differentiate C-2N and C-2S otherwise, we should do so here.

- 2. Parking lots that serve an industrial use that face or abut a residentially zoned area shall be screened so as to minimize the visual impact of the large expanses of asphalt and automobiles. This screening can be accomplished by an earth berm with shrub plantings or by a hedge with various deciduous and coniferous trees or by other combinations approved by the city.
- 3. Trees planted to satisfy the requirements of divisions (B)(3)(b)1. and (B)(3)(b)2. above will not be counted towards the requirement of one tree per 1,000 square feet of building unless otherwise specified by the city.
- 4. All trash and trash handling equipment shall be stored within the principal structure, within an attached structure accessible from within the principal structure, or totally screened from eye-level view from public streets and adjacent residential properties. If accessory structures are proposed, they shall be constructed of the same building material as the principal structures.
- 5. Light from automobile headlights and other sources shall be screened whenever it may be directed onto adjacent residential windows.
- (4) R-1, one- and two-family residential district, and R-2, multiple-family residential district.
- (a) The minimum number of trees meeting the Minimum Size requirements in Subsection shall be as follows:
 - i. Single and Two Family Uses. A minimum of two trees per parcel.
 - Townhouse and Multiple Family Uses of 4 or fewer units. A minimum of one tree
 per dwelling unit.
 - iii. Multiple Family Uses of 5 or more units. Whichever is greater: one tree per 1,000 square feet of gross building floor area or one tree per fifty lineal feet of site perimeter.
- (b) Where any multiple-family use with more than four parking spaces adjoins another residential use, the off-street parking for that use shall be screened from adjoining properties by a hedge or other various plantings as approved by the city.
- © Lights from automobiles and parking lot lights shall be screened whenever the light may be directed onto residential windows to the extent that it will cause an unreasonable disturbance.
 - (5) Landscape requirements applicable to all districts.
- (a) Unless otherwise directed by the city, all plantings shall be placed on the private property on which the development is taking place.
- (b) Landscape screening exceeding 30 inches in height as measured from the top side of the curb is not permitted within 15 feet of any street or alley.
- (c) All areas not otherwise improved in accordance with approved site plans or subdivisions shall be sodded and maintained.

Deleted: (a) A planting trip and/or earth berm, not exceeding a slope of 3:1, shall be placed in all newly platted residential developments that abut an arterial road as identified in the city's Comprehensive Plan.¶

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Deleted: n the R-1 and R-2 districts, each newly platted lot shall have two trees

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- (d) The owner shall provide the city with cash, corporate surety bond, approved letter of credit, or other surety satisfactory to the city to guarantee the proper installation and growth of the approved landscape plan. The performance bond shall be furnished by the developer prior to obtaining a building permit that is equal to the amount of the required landscaping to be installed. The performance bond shall be held by the city and must cover one full calendar year subsequent to the installation of the landscaping and must be conditioned upon complete and satisfactory implementation of the approved landscape plan.
 - (6) Minimum size of plantings.
- (a) Unless otherwise specified herein with respect to specific zoning districts, required trees shall be of the following minimum planting size:
- 1. Deciduous trees: two and one-half inches in diameter as measured six inches above ground;
 - 2. Coniferous trees: four feet in height; and
 - 3. Major shrub or berm plantings: five gallons.
- (b) Evergreen shrubs used for screening purposes, including those used in conjunction with berming, shall be a minimum of 24 inches in height.
 - (7) Species.
- (a) All trees used in site developments shall be indigenous to the appropriate hardiness zone and physical characteristics of the site.
- (b) All deciduous trees proposed to satisfy the minimum requirements of this policy shall be long-lived hardwood species.
- (c) The complement of trees fulfilling the requirements of this policy shall not be less than 25% deciduous and not less than 33% coniferous.
- (8) *Prohibited species*. The following species are prohibited and shall not be used toward meeting the requirements of this chapter.

Genus	Species	Common Name
Acer	Megundo	Boxelder
Gingko	Biloba	Gingko (female only)
Populus	Deltoides	Eastern cottonwood
Populus	Nigra Italica	Lombardy poplar

Commented [114]: Nancy Abts - Would it be better/possible to incorporate references to the "approved planting" Tree List used by Hennepin County Forestry, or is it too difficult to reference a dynamic document (that may be updated, or abolished) in ordinance?

Commented [115]: Joseph Sathe - Crystal Code Section 520.11 provides for a "City Approved Tree List" which could be created and maintained by the Osseo City Council.

Commented [116]: Mary Tietjen - I think you could refer to an outside document, but it might be more practical to keep a city-approved list.

(1997 Code, § 25.08) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.058 FENCING.

- (A) Building permit required.
- (1) No fence exceeding six feet in height shall be constructed without a building permit. The application shall be accompanied by a plot plan clearly describing the type, location, and method of anchoring the fence. Permit applications shall be reviewed by the Zoning Officer or their designee.
- (2) Fences may be erected, placed or maintained along or adjacent to a lot line. The property owner shall be responsible for properly locating all property lines before construction of any fence. Boundary line fences shall be located entirely upon the private property of the party constructing the fence unless the owner of the property of the adjoining property agrees, in writing, that the fence may be erected on the division line of the respective properties. The property owner shall be responsible for verifying the location of their property line and for maintaining that part of their property between fence and property line.
 - (3) Permanent fencing is required to meet the standards of the State Building Code.
- (B) Fencing standards for all districts. Fencing in all districts shall conform to the following.

(1) Fence Design. Fences shall be constructed, designed and maintained as follows:

- (a) Permitted materials. Fences shall be constructed of wood, metal, bricks, masonry or other permanent materials designed for permanent fencing.

 Fences constructed of wood shall be resistant to decay. Fences shall be maintained so that the exposed outer surface shall be uniformly painted or stained in a neat and aesthetically pleasing condition.
- (b) Hazardous and prohibited materials. Fences shall not be constructed of electrically charged wire, razor wire, chain link with slats, chicken wire, rope, cable, railroad ties, landscape timbers, utility poles or any other similar materials or materials not specifically manufactured for permanent fencing. The cut or selvage end of wire or metal fencing materials may not be exposed at the top of a fence if the height of the fence is less than six and one-half (6½) feet. Barbed wire may be permitted at the top of a fence if the height of the barbed wire is not less than six and one-half (6½) feet and the fence is not less than three feet from a public sidewalk or way.
- Posts and supporting members. All fence posts and related supporting members of the fence shall be erected so that the finished side or sides of the fence shall be facing the adjacent property or public right-of-way.
- (2) No fence shall be permitted on a public right-of-way without first obtaining the appropriate permit(s) for encroachment.
- (3) No fence shall be erected on a corner lot that will obstruct or impede the clear view of an intersection by approaching traffic and no fence shall obstruct free access to a fire hydrant.
- (4) All snow-stop fencing may be used from November 1 to April 1. No permit shall be required for temporary fencing.

Commented [117]: Nancy Abts - I prefer not to require a permit for residential fences <6' tall (like Maple Grove, Minneapolis. & many other cities).

Commented [118]: Joseph Sathe - I see no issue with

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Commented [**120]:** Joseph Sathe - I suggest changing this to property owner so it is clear who is responsible.

Commented [121]: Joseph Sathe - This creates a twostep process for verifying the lot line. Fence owner and fence constructor.

Deleted: persons, firms, or corporations constructing or causing the construction of the fence

Deleted: City staff will require any applicant for a fence permit to establish the boundary lines of his or her property by a survey thereof to be made by any registered land surveyor or by showing the stake markers of the surveyed lot.¶

Commented [122]: Joseph Sathe - :

Commented [123]: Joseph Sathe - ,

Deleted: (1) Fences in all districts shall be maintained so that the exposed outer surface shall be uniformly painted or stained in a neat and aesthetically pleasing condition.¶

Deleted: or boulevard area

Deleted: the fence owner

Deleted: without special permission from the City Council.¶

Commented [127]: Joseph Sathe - Does this conflict with earlier mention/removal of temporary fencing?

- (5) Any fence which is dangerous to the public safety or general welfare and health is a public nuisance and the city may commence proceedings for the abatement thereof.
- (C) Fencing standards in residential districts (R-1 and R-2). Fence height shall be limited by its location as specified below. Except as otherwise provided in section (1) below, the maximum fence height may be increased by two (2) feet if the entire fence is constructed of open, decorative, ornamental fencing materials that is not more than 50% opaque (such as vinyl coated chain link). In no case shall a fence exceed eight (8) feet in height, regardless of location.
- (1) A fence may be located along the rear lot line to a maximum height of up to six feet and to a maximum height of six feet along the side lot lines up to the point where it is parallel with the front edge of the house. From this point forward to the right-of-way, the height of the fence shall not exceed three feet. The maximum height of a fence in the front yard may be increased to four feet if the material type of the fence is not more than 50% opaque (such as vinyl coated chain link). The front of a house situated on a corner lot shall be the architectural front of the house facing the street from which the house is addressed.
- (2) A variance is needed for fences exceeding the above mentioned heights. No fence may be placed in violation of the restrictions of this section. Refer to Appendix A.

(1997 Code, § 25.08; Am. Ord. passed 10-27-2003),

Residential Fence Requirements			
Fence Location	Maximum Height, in Feet	Maximum Opaqueness	
Front yard at right-of-way.and	3	100%	
Side yards from front edge of house forward to right-of- way	4	50%	
Rear yard and Side yards from rear lot line to the front	6	100%	
edge of house	8	<u>50%</u>	

(1997 Code, Ch. 25, Table 3)

- (D) Fencing in commercial, manufacturing, and industrial districts (CBD, C-2N & C-2S, and M). Fences may be located along a lot line to a height of eight feet. Fences over eight feet in height shall require a variance.
 - (E) Required fences; swimming pools.
- (1) All swimming pools shall be completely enclosed by a type of fence resistant to being climbed unless specifically exempted in this section.
- (a) All fence openings or points of entry into the pool area enclosure shall be equipped with gates.
 - (b) The fence and gates shall be at least four feet in height.

Deleted: Electric fences may not be used as boundary fences, and material such as hog wire fencing, barbed wire fencing, or snow fencing will not be allowed as permanent fencing.¶

(6) The side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property. Abutting property owners will be notified by the constructor of the fence five calendar days before the building permit is issued.

Deleted: Any fence that crosses the width of the front yard shall not exceed three feet in height.

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house

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Commented [129]: Joseph Sathe - Should this be broken down into C-2N and C-2S? Use whatever is established above as the consistent protocol.

- (c) One gate shall be equipped with self-closing and self-attaching devices placed at the top of the gate or otherwise inaccessible to small children. Any gate in the fence will be presumed to be solely for maintenance purposes and shall remain locked at all times when not used for maintenance purposes.
- (d) The openings between the bottom of the fence and the ground or surface shall not be more than four inches.
- (2) Above-ground pools of four feet or more in wall height shall be exempt from complete enclosure by a type of fence resistant to being climbed. However, above-ground pools shall be equipped with a fence and gate system at all points of entry to the pool. The fence and gate system shall effectively control access to the pool and shall be constructed pursuant to the specifications listed in this section.
- (F) Existing fences. No existing fence in violation of this section will be allowed to be replaced or rebuilt. Should an existing fence be replaced or rebuilt, it must come under the regulation of this section.
- (G) *Traffic visibility at corner lots*. On corner lots, in all districts, no fence in excess of 30 inches above the street centerline grade shall be permitted within a triangular area defined as follows: beginning at the intersection of the extension of the existing curb lines of two intersecting streets, thence 30 feet back along one curb line, thence diagonally to a point 30 feet from the point of beginning back along the other curb line, thence to the point of beginning.

(Am. Ord. passed 10-27-2003)

(H) *Violations; remedies.* Violation of this section may be enforced by injunction and the city shall be entitled to the remedy of abatement in order that a fence erected in violation of this section may be removed.

(1997 Code, § 25.08)

(Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.059 ANTENNAE AND TOWERS.

- (A) Compliance required. Except as otherwise provided in this section, no antenna or tower may be erected, constructed, placed, re-erected, or replaced in a residential zoning district of the city except in conformance with this section.
- (B) *Permit required*. Except as provided in division (B)(2) below, no person may erect, construct, place, re-erect, reconstruct, or replace an antenna or tower in the city without first making application for and obtaining a permit therefor from the Building Official.
- (1) *Information*. The applicant for the permit shall provide at the time of application sufficient information to indicate that the erection, construction, placement, re-erection, reconstruction, or replacement will not create a safety hazard or damage to the property of other persons.
 - (2) Exceptions. Permits are not required for:

Commented [130]: Nancy Abts - This is an unusual violation/remedy section for the Zoning Code. Is it legally (& procedurally) appropriate?

Commented [**131**]: Joseph Sathe - Minn. Stat. 462.362 provides that a city may enforce an ordinance by injunction.

- (a) An antenna or combination of antenna(e) and tower rigidly attached to a building, provided that the combination of antenna and tower does not exceed a total height of ten feet above the highest point of attachment;
 - (b) Antennae and tower used by the city for city purposes;
- (c) Adjustment, repair, or replacement of the elements of an antenna, provided the adjustment, repair, or replacement does not reduce the safety factor; or
- (d) Temporary antennae or towers erected for test purposes, emergency communication, or for broadcast remote pick-up operations; temporary antennae and towers shall be removed within 72 hours following installation.
- (C) *Performance standards; co-location requirements*. All towers erected, constructed, or located within the city shall comply with the following requirements. A proposal for a new tower shall not be approved unless the City Council finds that the wireless telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, building, or structure within a one-mile radius of the proposed tower due to one or more of the following reasons, except that the radius shall be one-half mile for towers between 80 and 120 feet and one-quarter mile for towers under 80 feet:
- (1) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost;
- (2) The planned equipment would cause interference materially impacting the usability of other existing equipment at the tower or building as documented by a licensed professional engineer and the interference cannot be prevented at a reasonable cost;
- (3) Existing or approved towers or buildings within the radius cannot accommodate the planned equipment at a height necessary to function reasonably, as documented by a licensed professional engineer; or
- (4) Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon an existing or approved tower or building.

(D) Location.

- (1) *Side yards.* A tower or antenna or combination thereof may not be located in any front yard or side yard except that the towers or antennae rigidly attached to the side of the building may project into a required interior side yard provided they are at least four feet from an interior side property line.
- (2) Satellite antennae. Ground-based satellite antennae are permitted only in the rear yard and, for purposes of this zoning chapter, are accessory structures. The structures are subject to the requirements for accessory structures located in this chapter.
- (3) Extension into streets. No part of any antenna or tower nor any lines, cable, equipment, or wires, or braces in connection with either shall at any time extend across or over any public right-of-way, streets, highways, sidewalk, or alleys, or over any property line.

(4) *Height*. The total height of any tower, antennae, or combination thereof shall not exceed 35 feet from the lowest grade level at the base to the highest point of the tower, antennae, or combination thereof. The total height of roof-mounted towers, antennae, or combination thereof may not exceed 35 feet above the average elevation of the lot along the front building line of the building it is mounted on.

(E) Construction.

- (1) Wind. Towers with antennae shall be designed to withstand applicable wind load requirements as prescribed in the State Building Code.
- (2) *Treatment.* Metal towers shall be constructed of, or treated with, corrosive resistant material. Wood poles shall be treated wood in conformance with the State Building Code.
- (3) *Grounding*. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with the National Electrical Code.
- (4) *Climbing*. A tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.
- (5) Appurtenant structures. No antenna or tower shall have affixed or attached to it, in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency or the Federal Communication Commission, nor shall any tower have constructed thereon or attached thereto any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

(F) Non-conforming installations.

- (1) General rule. Antennae and towers in existence on November 23, 1994, which do not conform to or comply with this section, may continue to exist for purposes now used but may not be replaced or structurally altered, except as provided in division (B) of this section, without complying with this division (F).
- (2) Restoration. A non-conforming antenna or tower which is damaged by fire or other cause to an extent of more than 50% of its market value shall not be restored except in conformity with the regulations of this chapter. However, if a building permit has been applied for within 180 days of when the antenna or tower is damaged, then the antenna or tower may be restored to its pre-damage non-conforming status subject to the applicability of the Minnesota State Building Code and other requirements of the Osseo Code of Ordinances.
- (G) Variances. The City Council may grant variances to the literal provisions of this section in the same manner granted under this zoning chapter.
- (H) Amateur radio towers/antennas. Amateur radio support structures (towers) shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

(1997 Code, § 25.08) (Ord. passed 11-14-1994; Am. Ord. passed 12-11-2000; Am. Ord. 2006-3, passed 5-8-2006) Penalty, see § 10.99

§ 153.060 HOME OCCUPATIONS.

All home occupations permitted by this chapter shall be so established and maintained as to comply with the provisions of the following standards:

- (A) Conduct of the home occupation does not result in any alterations to the exterior of the residence or involve interior or exterior construction features not customarily found in dwellings;
- (B) Signage consists of no more than one single- or double-faced unlighted sign with a maximum area of two square feet not located on a public right-of-way;
- (C) Conduct of the home occupation does not generate more noise, vibration, glare, fumes, odors, or electrical interference than normally associated with residential occupancy in the neighborhood;
- (D) The home occupation is not of a scale requiring the use of a commercial vehicle for the delivery of materials to or from the premises;
- (E) The use shall not generate sewage of a nature or rate greater than that normally associated with residential occupancy, nor shall it generate hazardous waste or solid waste at a rate greater than that normally associated with residential occupancy;
- (F) Except for articles produced on the premises, no stock-in-trade shall be displayed or sold on the premises;
- (G) The home occupation shall not increase vehicular traffic flow and parking by more than two customer cars at a time, and any need for parking generated by the conduct of a home occupation shall be met off the street and other than in a required front yard, or in a driveway in a manner so that access to the garage is not eliminated;
- (H) No more than <u>two people</u> other than those living in the residence may be employed in the home occupation;
 - (I) No outdoor display of goods or outside storage of equipment or materials is permitted;
- (J) A home occupation may be located within the dwelling, an accessory building, or both, provided that the total area of the home occupation is not greater than 50% of the finished floor area of the dwelling;
- (K) No home occupation will be allowed that jeopardizes the health and safety of residents of the city. Home businesses shall not create nuisances as provided in the Osseo City Code Chapter 93. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. The use shall not employ the storage of explosive, flammable, or hazardous materials beyond those normally associated with residential use;
- (L) There shall be no renting of space in a residence for non-residential purposes (1997 Code, § 25.09) (Ord. passed 11-14-1994) Penalty, see § 10.99

Field Code Changed

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§ 153.061 STORMWATER MANAGEMENT.

- (A) *Applicability*. Projects disturbing more than one acre shall follow the most current general permit to Discharge Stormwater Associated with Construction Activity No. MN R100001 (Permit) issued by the Minnesota Pollution Control Agency (MPCA), as amended.
- (B) *Investigation*. After a building permit has been applied for and prior to the issuance of the permit, the city shall thoroughly investigate the existing drainage features of the property to be used.
- (C) Obstruction of natural drainage prohibited. No building permit shall be issued for the construction of any building on which construction or necessary grading thereto shall obstruct any natural drainage waterway.
- (D) *Undrainable lands*. No building permit shall be issued for the construction of any building upon ground which cannot be properly drained.
- (E) Protection of existing drainage installations. Where application is made for a building permit and subsequent investigation shows that the property to be occupied by the building is adjacent to a portion of a public road or street containing a drainage culvert, catch basin, sewer, special ditch, or any other artificial drainage structures used for the purpose of draining that property or neighboring property, the applicant shall specifically agree in writing to protect these waterways in such a way that they shall not be affected by the proposed building construction or grading work incidental thereto.
- (F) *Order to regrade*. The city may order the applicant to regrade property if existing grade does not conform to any provision of this section, if the grade indicated in the preliminary plan has not been followed, or if the grade poses a drainage problem to neighboring properties.
- (G) Construction site stormwater runoff control. Owners and operators of a construction activity shall develop site plans that must be submitted for review and approval, prior to the start of construction activity. Site plans must be kept up-to-date by the owners and operators of a construction activity with regards to stormwater runoff controls. Site plans shall incorporate erosion and sediment controls, waste controls, and best management practices as described in the permit.
 - (H) Post-construction stormwater management.
- (1) All owners and/or operators must submit site plans with post-construction stormwater best management practices, for review and approval, prior to the start of construction activity.
- (2) Stormwater runoff rates for proposed activities, development or redevelopment conditions, shall not exceed the existing conditions. Runoff rates may be restricted to less than the existing rates when necessary for the public health and general welfare of the watershed.
- (3) For new development projects there shall not be a net increase from pre-project conditions (on an annual average basis) of:
 - (a) Stormwater volume, unless precluded by the limitations and exceptions in the permit;
 - (b) Stormwater discharges of total suspended solids (TSS); and
 - (c) Stormwater discharges of total phosphorus (TP).

- (4) For redevelopment projects there shall be a net reduction from pre-project conditions (on an average annual basis) of:
 - (a) Stormwater volume, unless precluded by the limitations and exceptions in the permit;
 - (b) Stormwater discharges of total suspended solids (TSS); and
 - (c) Stormwater discharges of total phosphorus (TP).
- (5) Regional detention basins shall be utilized to manage peak flow rates and meet water quality objectives when feasible.
- (6) Stormwater calculations shall be provided for the two-year, ten-year and 100-year, 24-hour storm events. The precipitation depths for these storm events shall be obtained from National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Volume 8, published June 2013, or its successor, using the online NOAA precipitation frequency estimates. The applicant must document the location and event depths used.
- (a) The hydrologic and hydraulic design calculations shall include the design storm frequency, time of concentration, soil curve numbers, peak runoff rates and volumes for each watershed area, flow velocities, and infiltration rates where applicable.
 - (b) A calculation summary report shall be submitted.
- (7) Storm sewer pipes shall be designed for a ten-year storm event, unless a lower intensity event is allowed by the City Engineer. The use of the rational method shall be used for pipe design calculations.
- (8) If a stormwater management control measure depends on the hydrologic properties of soils (e.g. infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles.
- (9) Permanent sedimentation and water quality ponds shall be designed to meet Nationwide Urban Runoff Program (NURP) standards per Protecting Water Quality in Urban Areas (MPCA 2000). Provide an outlet skimmer to prevent migration of floatables and oils for at least the one year storm event; baffled weirs are not allowed.
- (10) The owner of a detention basin, water quality pond, infiltration facility, or a water quality treatment device, if not a governmental unit, shall provide to the city a recordable agreement detailing an operations and maintenance plan that assures that the structure(s) will be operated and maintained as designed.
- (11) *Structure elevations*. Any new residential, commercial, industrial or other habitable structures shall be constructed with the low opening elevation at least one foot above the 100-year flood level. The low floor shall be at least one foot above the normal water level. Low openings shall be at least one foot above the emergency overflow.
- (12) Development that creates one acre or more of new impervious surface must infiltrate runoff from impervious areas and address the use of best management practices to limit the effect of the loss of previous area.

(a) One inch of impervious surface runoff must be infiltrated within 48 hours using accepted BMPs for infiltration, such as infiltration trenches, rainwater gardens, or infiltration basins. Infiltration volumes and facility sizes shall be calculated using the appropriate hydrological soil group classification and saturated infiltration rate from the table below. Documented site-specific infiltration or hydraulic conductivity measurements completed by a licensed soil scientist or engineer can be used in place of the values in the table.

Hydrologic Soils Group	Infiltration Rate (in/hr)	Soil Texture
A	0.30	Sand, loamy sand, or sand loam
В	0.15	Silt loam or loam
С	0.07	Sandy clay loam
D	0.03	Clay loam, silt clay loam, silty clay, or clay

- (b) Prior to infiltrating runoff, pretreatment shall be required before the runoff enters the infiltration practice.
- (c) Prohibitions and/or restrictions may be placed on the infiltration techniques used to achieve conditions for post-construction stormwater management, without higher engineering review, sufficient to provide a functioning treatment system when the infiltration device will be constructed in areas as outlined in the permit.
- (d) *Linear projects*. Where lack of right-of-way precludes the installation of volume control practices that meet the conditions for post-construction stormwater management, a lesser volume control may be approved as allowed in the permit. A reasonable attempt must be made to obtain right-of-way during the project planning process for volume control practices.
- (I) When the post-construction stormwater management for total suspended solids and total phosphorus cannot be cost effectively managed on the site of the original construction activity, mitigation measures shall be met as required by the permit.
- (J) A legal mechanism(s) must be established for long-term maintenance of structural stormwater best management practices, constructed after August 1, 2013, that are not owned or operated by the city, but that are within the city's jurisdiction. The legal mechanism(s) shall meet the permit requirements.
- (K) Project review thresholds. No person or political subdivision shall commence a land disturbing activity or the development or redevelopment of land without first submitting plans to and obtaining approval from the city or commission as required in the Rules and Standards of the Shingle Creek and West Mississippi Watershed Management Commissions Rule D Stormwater Management.

(Ord. 2015-2, passed 4-27-2015)

§ 153.XXX ALTERNATIVE ENERGY SYSTEMS

- A. Purpose. To provide a resiliency and quality of life for the City's residents; making careful and effective use of available natural, human, and economic resources; and ensuring that resources exist to maintain and enhance the quality of life for future residents. The City finds that it is in the public interest to encourage alternative energy systems that have a positive impact on energy production and conservation while not having an adverse impact on the community. The purpose of this Section is to:
 - Accommodate alternative energy sources by creating a clear regulatory path for approving alternative energy systems.
 - 2) Create a livable community where development may incorporate resilient design elements such as resource and energy conservation and use of renewable energy.
 - 3) Protect and enhance air quality and decrease use of fossil fuels.
 - 4) Accommodate alternative energy development in locations where the technology is viable and environmental, economic, and social impacts can be mitigated.
 - Encourage development by establishing reasonable requirements for performance, safety, design, and aesthetics of alternative energy systems.

B. Solar Energy Systems.

- Zoning District Allowance. Solar energy systems in accordance with the standards in this
 chapter are allowed as a permitted accessory use in all zoning districts.
- 2) General Standards.
 - Exemption. Passive or building integrated solar energy systems are exempt from the requirements of this Section and shall be regulated as any other building element.
 - ii. Height. Roof mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district. Ground mounted solar energy systems shall not exceed fifteen (15) feet in height.
 - iii. Location. In residential zoning districts, ground mounted solar energy systems shall be limited to the rear yard. In nonresidential districts, ground mounted solar energy systems may be permitted in front yards, side yards adjacent to public rights-of-way, and rear yards.
 - iv. Setbacks. Ground mounted solar energy systems shall comply with all accessory structure setbacks in the applicable zoning district. Roof mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.
 - v. Roof Mounting. Roof mounted solar collectors may be flush mounted or bracket mounted. Bracket mounted collectors shall be permitted only when a determination is made by the City Building Official that the underlying roof structure will support apparatus, wind, and snow loads and all applicable building standards are satisfied. The Building Official may require the applicant to supply engineers' drawings, reports, analyses, or other documents to aid in this determination.
 - vi. Easements. Solar energy systems shall not encroach on public drainage, utility roadway, or trail easements.
 - vii. Screening. Solar energy systems shall be screened from view to the extent possible without impacting their function.

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Commented [134]: Mary Tietjen - Need to make sure the numbering/lettering matches other sections of the Code – (A). (1). etc.

What is the source of this new Section?

Commented [NA135R134]: North St. Paul, MN via WSB & Associates

Commented [136]: Joseph Sathe - Capitalization

Commented [137]: Joseph Sathe - I suggest including definitions of terms in this new section to avoid any confusion in the future.

- viii. Maximum Area. Ground mounted solar energy systems shall be limited in size to the maximum area requirement allowed for accessory structures or no more than twentyfive (25) percent of the rear yard, whichever is less.
- ix. Aesthetics. All solar energy systems shall minimize glare toward vehicular traffic and adjacent properties.
- x. Feeder Lines. The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.
- xi. Standards and Certification.
 - Standards. Solar energy systems shall meet the minimum standards outlined by the International Electrotechnical Commission (IEC); the American Society Of Heating, Refrigerating, And Air-Conditioning Engineers (ASHRAE); ASTM International; British Standards Institution (BSI); International Organization For Standardization (ISO); Underwriter's Laboratory (UL); the Solar Rating And Certification Corporation (SRCC); or other standards as determined by the City Building Official.
 - 2. Certification. Solar energy systems shall be certified by Underwriters
 Laboratories, Inc., and the National Renewable Energy Laboratory, the Solar
 Rating And Certification Corporation or other body as determined by the
 Zoning Officer for conformance to IEC or AWEA standards. The City
 reserves the right to deny a building permit for proposed solar energy
 systems deemed to have inadequate certification.
- xii. Utility Connection. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect shall be provided if required by the utility.
- xiii. Abandonment. If a solar energy system remains nonfunctional or inoperative for a continuous period of one (1) year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including transmission equipment.
- xiv. Permit. A building permit shall be obtained for any solar energy system prior to installation.
- 3) Application Criteria for Deviations from Standards. Deviations to the standards in this Section may be permitted as a Conditional Use. In granting a Conditional Use Permit, the City Council shall consider the following additional criteria unique to alternative energy systems:
 - <u>i.</u> That the deviation is required to allow for the improved operation of the alternative energy system.
 - ii. That the alternative energy system has a net energy gain.
 - iii. That the alternative energy system does not adversely affect solar or wind access to adjacent properties.
 - iv. That the alternative energy system complies with all other engineering, building, safety, and fire regulations.
 - That the alternative energy system is found to not adversely impact the area, including impacting the health, safety, and general welfare of occupants of neighboring properties and users of public rights-of- way.

Commented [138]: Joseph Sathe - Use of parcel, property, or lot?

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OFF-STREET PARKING

₽§ 153.070 PURPOSE; SITE PLAN.

- (A) The regulation of all off-street parking spaces is intended to alleviate or prevent congestion of the public right-of-way and so to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking in accordance with the utilization of various parcels of land or structures.
- (B) All applications for permits required under this chapter in all districts shall be accompanied by a site plan drawn to scale and dimension indicating the location of off-street parking and loading spaces in compliance with the following requirements. The parking plan shall also show pedestrian connections within the property and to existing or planned public sidewalk and trail connections.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

■§ 153.071 YARDS.

Parking areas and garage stalls accessory to residential structures shall be subject to front yard and to side yard requirements on a street abutting a corner lot in accordance with the requirements for the use district in which the parking is located, except that when the parking area is the primary rather than accessory use of a particular property and when that property abuts a lot in the commercial or industrial districts and is in the same ownership as the land in those districts, the front and side yard depths may be reduced to not less than ten feet.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

§ 153.072 SEATING CALCULATION; BENCHES.

In stadiums, <u>religious institutions</u>, and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 22 inches of seating facility shall be counted as one seat for the purpose of determining required parking.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

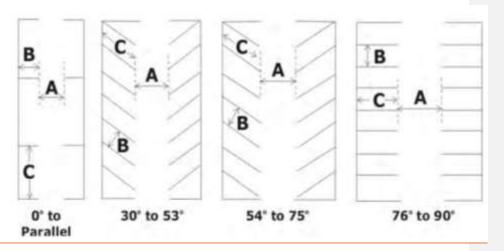
§ 153.073 PARKING SPACES; DIMENSIONS.

(A) Each parking space and aisle shall comply with the minimum dimensions in Table ## as illustrated in Figure ##.

Parking Space and Aisle Dimensions								
Angle of	One-Way	Two-Way	Parking Stall Width (Feet) "B"			Parking Stall Length (Feet)		
Parking	Maneuvering	Maneuvering				<u>"C"</u>		
(degrees)	Aisle Width	Aisle Width	Compact	Low	<u>Full</u>	Compact	Low	<u>Full</u>
	(Feet) "A"	(Feet) "A"	Size	Turnover	Size	Size	Turnover	Size
0° -	<u>12</u>	20	8	8.5	9	<u>18</u>	22	<u>22</u>
Parallel								
30°-53°	<u>14</u>	<u>20</u>	<u>8</u>	<u>8.5</u>	<u>9</u>	<u>16</u>	<u>20</u>	<u>20</u>
54°-75°	<u>18</u>	<u>22</u>	<u>8</u>	<u>8.5</u>	9	<u>16</u>	<u>20,</u>	<u>20,</u>
<u>76°- 90°</u>	<u>22</u>	<u>24</u>	<u>8</u>	<u>8.5</u>	9	<u>16</u>	<u>18</u>	<u>18</u>

Deleted: churches Deleted: - Each parking space shall be not less than nine feet wide and 20 feet in length, and each space shall be served adequately by access drives. For purposes of calculating parking space requirements, one parking space for one vehicle shall equal 300 square feet of storage and maneuvering area, including access drives. Formatted: Strikethrough Formatted: Font: Arial Narrow Formatted: Font: Arial Narrow **Formatted Table** Formatted: Font: Arial Narrow Formatted: Font: Arial Narrow

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(B) When the length of a parking space abuts a column, fence, wall, or other obstruction, the required width of the entire parking space shall be increased by at least one foot.

(C) Use of compact vehicle spaces.

- (1) A maximum of 20 percent of spaces required for a use may be provided by compact parking spaces.
- (2) Compact spaces shall be clearly labeled for "compact cars" and grouped together in one or more locations or at regular intervals so that only compact cars can easily maneuver into the space.
- (D) Use of low turnover parking. Narrow parking spaces may be established in locations where the typical user parks for more than two hours. Minimum off-street parking dimensions for low turnover parking spaces are identified in Table ##.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

↓§ 153.074 RESIDENTIAL PARKING FACILITIES; USE RESTRICTIONS.

Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles. No motor vehicle over one and one-half ton capacity bearing a commercial license and no commercially licensed trailer shall be parked or stored in a residential district except when loading, unloading, or rendering a service. Under no circumstances shall parking facilities accessory to residential structures be used for open area storage of commercial vehicles.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

■§ 153.075 PARKING SPACE LOCATION.

(A) Spaces for dwellings shall be on the same lot as the dwelling unit.

- (B) Spaces for commercial retail uses or for public or semi-public uses, excepting shopping centers, shall be within 300 feet of the main entrance of the building being served.
- (C) Spaces for industrial uses shall be within 800 feet of the main entrance of the building being served.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

- (A) Residential districts.
- (1) Open parking spaces accessory to one- and two-family structures may be located anywhere on the lot containing the principal structure.
- (2) Open parking spaces or areas designed for three or more vehicles and garage stalls accessory to residential structures shall be set back at least five feet from an interior side lot line and at least eight feet from a rear lot line.
- (3) Motor vehicles are required to be parked on designated parking spaces or areas (such as, driveway). All other parking areas are prohibited.
- (B) All other districts. Off-street parking spaces shall not be less than ten feet from a street right-of-way line nor less than five feet from any interior side lot line or rear lot line, except where a side lot line or rear lot line is abutting a residential district, when off-street parking shall not be less than ten feet from those lot lines.

(1997 Code, § 25.10) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.077 JOINT PARKING FACILITIES.

- (A) Required parking facilities serving two or more uses may be located on the same lot or in the same structure, provided that the total number of parking spaces so furnished shall be not less than the sum total of the separate requirements for each use during any peak hour parking period when the parking facility is utilized at the same time by two or more uses.
 - (B) Conditions required for joint use are:
 - (1) The proposed joint parking space is within 400 feet of the use it will serve;
- (2) The applicant(s) shall show that there is no substantial conflict in the principal operating hours of the two or more buildings or uses for which joint use of off-street parking facilities is proposed; and
- (3) A properly drawn legal instrument approved by the City Attorney, executed by the parties concerned for joint use of off-street parking facilities, shall be filed with the Administrator. This instrument may be a three- or more party agreement including the city.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

§ 153.078 DESIGN AND MAINTENANCE.

(A) Access. Access and parking areas shall be designed so as to provide an adequate means of access to a public alley or street. The driveway shall be limited so as to cause the least interference with traffic movement. All public parking areas shall have access off driveways and

not directly off a public street. <u>Traffic shall be channeled and controlled in a manner that will</u> avoid traffic hazards including obstacles to safe pedestrian access.

- (B) Calculating space. All square-footage-based parking standards shall be computed on the basis of gross floor area of all floors in a nonresidential building. Up to 15 percent of the gross floor area may be excluded from the above calculation if the area is used for storage, loading, unloading, or for mechanical equipment. When the determining of the number of required off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space. Entrances, exits, or driveways shall not be computed as any part of a required parking lot or area, except in the case of one or two family dwellings where driveways may be used in calculating the amount of off-street parking.
- (C) Signs. Signs located in any parking area necessary for orderly operation of traffic movement shall be in addition to accessory signs permitted in other sections of this chapter.
- (D) *Surfacing*. All of the area intended to be utilized for parking space and driveways shall be surfaced with an impervious material to control dust and drainage and subject to the approval of the Council except parking areas for less than three vehicles. This requirement also applies to open sales lots.
- (1) Within all zoning districts, parking lots and driveways shall be paved and permanently maintained with asphalt, concrete, or approved paving units.
- (2) Parking lots and driveways may be constructed with the use of other all-weather surfacing as determined to be appropriate by the City Engineer, where it is first determined that a surface other than asphalt or concrete is consistent with the driveway of similar properties in the vicinity, and that the alternate surface will not impair accessibility for emergency vehicles.
- (E) Striping and identification. Parking spaces shall be clearly outlined with four-inch wide lines painted on the parking surface. The striping shall be continuously maintained in a clear and visible manner in compliance with the approved plans.
- (E) Lighting. Exterior lighting shall not be directed upon adjacent land or the public right-of-way.
- (F) Curbing and landscaping. All open off-street parking areas designed to have head-in parking, or any other off-street parking area configuration, along the interior property line, shall provide a concrete bumper curb not less than five feet from that property line or a guard of normal bumper height not less than five feet from that property line. When the area is for six spaces or more and not located to the rear of the building, a fence or hedge not over three feet in height shall be erected or planted along the front yard setback line, and grass or hedge shall occupy the space between the sidewalk and fence.
- (G) *Curb and gutter*. Off-street parking facilities are required to have concrete curbing and guttering. Existing off-street parking facilities are required to meet this requirement when modifying or expanding the facility.
- (H) Permanent spaces. Each parking space shall be permanent available, marked, and maintained for parking purposes for the use which it is intended to serve.

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Commented [142]: Joseph Sathe - "s"

Commented [143]: Joseph Sathe - "s"

Commented [NA144R143]: I am hoping each property only has one driveway

Commented [**145**]: Joseph Sathe - Is this a term Osseo uses? It is directly from Crystal's code and is the only time "approved plans" appears in this document.

Commented [NA146R145]: I'm open to suggestions on revision. We do approve site plans under 153.153 or as part of a CUP or PUD; that is what I am trying to refer to.

Commented [147]: Joseph Sathe - "ly"

(I) Spaces for people with disabilities. Parking spaces serving people with disabilities shall be provided in compliance with all applicable state and federal requirements. If practicable, spaces for people with disabilities shall be located so they provide easy access from the closest parking are to the major entrance of the use for which they are provided.

(1997 Code, § 25.10) (Ord. passed 11-14-1994) Penalty, see § 10.99

↓ § 153.079 REQUIRED NUMBER OF OFF-STREET PARKING SPACES.

The required number of off-street <u>automobile</u> parking spaces shall be as set forth in Appendix B of this chapter.

Bicycle parking shall be provided as follows...

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

§ 153.080 CBD DISTRICT; SPACE REDUCTION.

In general, the above off-street parking requirements may be reduced when applied to uses within the CBD district, upon approval of the City Council. The intent of the reduction is to preserve the compact, pedestrian-oriented character of the downtown to the extent possible. In the event of a sizable redevelopment project within the CBD district, off-street parking spaces shall be provided as required by the City Council.

(1997 Code, § 25.10) (Ord. passed 11-14-1994)

SIGNS

•••

PLANNED UNIT DEVELOPMENTS

NON-CONFORMING STRUCTURES, USES, AND LOTS

(A) Purpose. This subsection is intended to provide for the regulation of uses, structures, lots, or site improvements which lawfully existed prior to the effective date of the zoning ordinance or subsequent amendments, but which fail to comply with one or more current regulations.

(B) Definitions. The following terms and accompanying definitions are used in the context of nonconformities.

- (1) Expansion. For the purposes of nonconformities, expansion includes, but is not limited to, intensification of the use, expansion of the use to a portion of the property not previously used, or increased structure dimensions.
- (2) Improvement. Where a nonconformity is made more compatible with the use of adjacent properties, efficient, and/or more aesthetically pleasing. For the purposes of nonconformities, an improvement does not include an expansion.
- (3) Maintenance. Normal repair, restoration, and improvement including cosmetic changes. For the purposes of nonconformities, maintenance does not include new construction or expansion of a use or structure.

Field Code Changed

Commented [148]: Nancy Abts - Pending Planning Commission/Council decision on whether to incorporate here (citywide application) or only in the EMX districts.

Commented [**149**]: Joseph Sathe - Would this be incorporated later as an amendment?

Commented [NA150R149]: It currently is in the language for the EMX District but could be moved here.

Commented [**151**]: Nancy Abts - Section recently updated; no changes proposed

Commented [**152**]: Joseph Sathe - Why is it not included here? Since the definitions are being updated, should the section be included as well?

Commented [153]: Mary Tietjen - Agree that if the definitions are being stricken from this existing section, we'll need to include it so we can repeal those definitions and adopt them in the earlier Definitions section.

Commented [154]: Nancy Abts - No changes proposed at this time

Commented [**155**]: Joseph Sathe - Should this be included to confirm there is no conflict with the new sections?

Commented [**156**]: Mary Tietjen - Even if no substantive changes, we should review to make sure we don't need to update terms, etc. in order to stay consistent with any amended sections.

(4) Repair. For the purposes of nonconformities, repair means to restore to good condition by replacing or reassembling broken, worn out or malfunctioning components. Repair does not include expansion.

(5) Replacement. Construction that provides a substitute substantially equivalent to the preexisting conditions that preceded damage or destruction.

(6) Restoration. For the purposes of nonconformities, restoration means to restore or repair to good condition by replacing or reassembling broken, worn out or malfunctioning components.

Restoration does not include expansion.

- (C) Existing uses. The lawful use or occupation of any land or building existing at the time of the adoption of the zoning ordinance or subsequent amendments may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless: (1) the nonconformity or occupancy is discontinued for a period of more than one year; or (2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged Nonconformities, however, shall be subject to the following.
- (D) Non-conforming use not made conforming. The use of any land or buildings that did not conform to the provisions of the prior city zoning ordinance adopted December 29, 1955, or amendments thereto, do not become conforming uses under this chapter unless specifically provided in this chapter. This chapter does not make permitted uses out of any uses that were not permitted under the prior city zoning ordinance unless specifically permitted by this chapter.
 - (E) Restrictions on changes.
- (1) Repair or maintenance. A non-conforming building or structure may be repaired or maintained, subject to the limitations of this chapter. Normal maintenance of a non-conforming building or structure is permitted; including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use.
- (2) Enlargement. A non-conforming building structure, or use shall not be expanded in any manner unless the additions or enlargements constitute improvements made to bring the building or structure into conformity with the regulations of this chapter. No non-conforming use shall be expanded to occupy a greater area than was occupied when the use became non-conforming, except in the following case: a non-conforming use may be extended throughout any parts of a building which were arranged or designed for that use when the use became non-conforming, but no such use shall be extended to occupy land outside the building.
- (3) Restoration. A non-conforming building or structure which is damaged by fire or other cause to an extent of more than 50% of its market value shall not be restored except in conformity with the regulations of this chapter. However, if a building permit has been applied for within 180 days of when the building or structure is damaged, then the building or structure may be restored to its pre-damage non-conforming status subject to the applicability of the Minnesota State Building Code and other requirements of the Osseo Code of Ordinances.
- Relocation. No non-conforming use or structure shall be moved in whole or in part to any other part of the parcel of land upon which the same was conducted at the time of passage of

Commented [157]: Joseph Sathe - "out,"

Commented [158]: Joseph Sathe - "(5) Replacement"

Commented [159]: Joseph Sathe - "out,"

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Commented [160]: Mary Tietjen - Suggesting changes to coincide with state statute.

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Deleted: chapter on November 14, 1994

Deleted: at the size and in the manner of operation existing on that date, even if the use does not conform to the regulations of this chapter, and if the use has not at any time been discontinued and continues to exist on the date of the adoption of this chapter. The use

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Deleted: (4) Maintenance. Normal maintenance of a non-conforming building or structure is permitted; including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use.¶

(5) Enlargement or alteration. No non-conforming structure or use shall be enlarged, increased, or extended to occupy a greater area than was occupied when the use became non-conforming, except in the following case: a non-conforming use may be extended throughout any parts of a building which were arranged or designed for that use when the use became non-conforming, but no such use shall be extended to occupy land outside the building.¶

Moved up [1]: Normal maintenance of a

Deleted: 6

this chapter, nor shall that use or structure be moved in whole or in part to any other lot, except to bring it into conformance with the regulations of this chapter.

- (5) Discontinuance or abandonment. A non-conforming use or structure that has been discontinued or abandoned for more than one year shall not be re-established, and any future use shall be in conformity with the regulations of this chapter.
- Status change. A non-conforming use of a building or land may be changed to a similar non-conforming use or a more restrictive non-conforming use. Once a structure or parcel of land has been changed to a more restrictive non-conforming use, it shall not return to a less restrictive use.
- (a) When a non-conforming structure or use of land has been changed to a conforming use, it shall not thereafter be changed back to a non-conforming use.
- (b) When a non-conforming use or structure meets the requirements for, and is granted, a conditional use permit as an allowed conditional use in that district, the use or structure is thereafter deemed a conforming use.

(7) Safety. Nothing in this subsection shall prevent the repairing of a structure to a safe condition when said structure is declared unsafe by the proper authority.

(1997 Code, § 25.07) (Ord. passed 11-14-1994; Am. Ord. 2006-3, passed 5-8-2006) <u>Penalty, see § 10.99</u>

§ 153.131 NON-CONFORMING LOTS OF RECORD.

- (A) Dwellings on small lots. In any district in which one-family dwellings are permitted, a one-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. The lot must be in separate ownership. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located, but in no case shall building be permitted on a lot less than 50 feet in width. Variance of yard requirements shall be obtained only through action of the Board of Appeals.
- (B) Lots in the same ownership. If two or more lots, or combinations of lots and portions of lots, with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

(1997 Code, § 25.07) (Ord. passed 11-14-1994) Penalty, see § 10.99

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Field Code Changed

ADMINISTRATION AND ENFORCEMENT

§ 153.145 ZONING OFFICER; ADMINISTRATOR.

- (A) Zoning Officer. The specific duties of the Zoning Officer include:
- (1) Providing zoning information upon request;
- (2) Receiving applications for conditional use permits, variances, amendments, and appeals, referring the applications to the appropriate official body, notifying affected property owners of required public hearings, and publishing notice of the hearings;
- (3) Notifying applicants for conditional use permits, variances, amendments, and appeals of actions taken by the official bodies relative to their applications;
- (4) Periodically inspecting buildings, structures, and uses of land to determine compliance with the terms of this chapter. In regard to performance standards, the Zoning Officer may require the services of a testing laboratory to determine compliance. The cost of employing the laboratory shall be paid for by the owner if a violation of this chapter is established, otherwise by the city:
- (5) Investigating violations, notifying persons accused of violations and describing the nature thereof, and initiating appropriate actions against violators as provided by law;
- (6) Maintaining permanent and current records of this chapter and the official Zoning Map, including but not limited to special use permits, variances, amendments, appeals, and applications therefor; and
- (7) Ordering discontinuance of illegal use of land, buildings, or structures; ordering removal of illegal buildings, structures, additions, alterations; ordering discontinuance of illegal work being done; or taking any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.
- (B) *Administrator*. This chapter shall be administered and enforced by the Administrator who is appointed by the City Council. The Administrator may institute in the name of the city appropriate actions or proceedings against a violator as provided by statute, charter, code provision, or ordinance.

(1997 Code, § 25.12) (Ord. passed 11-14-1994) Penalty, see § 10.99

- (A) Statutory authority. M.S. § 462.354, as it may be amended from time to time, requires any municipality having in effect a zoning ordinance to provide by ordinance for a board of appeals and adjustments. The statute also states that the governing body may provide, alternatively, that there be a separate board of appeals and adjustments, or that the governing body, the planning commission, or a committee of the planning commission serve as the board of appeals and adjustments, and it may provide an appropriate name for the board. The board may be given other duties as the governing body may direct.
- (B) Establishment. The City Council is hereby established as the required board of appeals and adjustments, this board to be herein referred to as the Board of Appeals or the Board. The

Commented [**161**]: Mary Tietjen - Should this say "conditional use permits" instead?

Commented [NA162R161]: Perhaps "special use" would include conditional as well as interim use permits

Commented [163]: Mary Tietjen - Or "Zoning Officer"?

Commented [NA164R163]: Chapter 32 designates City Officials as the Administrator, City Clerk, Treasurer, and City Attorney (only).

I think the intent is that the City Administrator is ultimately the authority/responsible party for this ordinance.

City Council, acting as the Board of Appeals, shall be vested with that administrative authority as is hereinafter provided or as provided by state law.

- (C) *Duties*. The duties of the Board of Appeals shall be:
- (1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Officer;
 - (2) To hear and decide requests for variances from the literal provisions of this chapter; and
- (3) To interpret the meaning of the chapter in cases of ambiguity and to make rulings with respect to the application of the provisions.
 - (D) Proceedings.
- (1) The Board of Appeals may adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter.
- (2) Meetings shall be held at the call of the Chair and at other times as the Board may determine. The Chair, or in his or her absence, the Acting Chair, may request the attendance of witnesses. All meetings shall be open to the public.
- (3) The Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Clerk.

(1997 Code, § 25.12) (Ord. passed 11-14-1994)

- (A) Appeals to the Board of Appeals may be taken by any person aggrieved or by any official or department of the city affected by any decision of the Zoning Officer. Appeals shall be taken within 60 days of the decision by filing with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (B) The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person, by agent, or by attorney.

(1997 Code, § 25.12) (Ord. passed 11-14-1994)

§ 153.148 PLANNING COMMISSION DUTIES.

Planning Commission duties in zoning administration shall be:

- (A) To hold public hearings on applications for amendments to this chapter. The Commission shall not have the authority to make changes or amendments to this chapter; it shall act in a purely advisory manner to the City Council, making its recommendation in all cases referred to it, and transmitting this to the City Council for final action;
- (B) To consider applications for conditional use permits and interim use permits provided for within this chapter and to transmit its recommendation to the City Council for final action; and

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Deleted: Administrator-

Deleted: -Treasurer

Commented [**167**]: Nancy Abts - If Interim Uses are adopted by the City, elsewhere in this ordinance

Commented [NA168R167]: Or, "special use permits" if we decide that is an acceptable blanket term

(C) To consider applications for variances and appeals and to transmit a recommendation to the Board of Appeals.

(1997 Code, § 25.12) (Ord. passed 11-14-1994)

₽§ 153.149 BUILDING PERMITS.

- (A) Building permits. Hereafter no person shall erect, alter, remodel, wreck, or move any kind of a structure, building, or part thereof without first securing a building permit from the city.
- (B) Certificate of occupancy. Hereafter, no new building or addition, and no land whose use has been changed, shall be occupied other than for a public utility use until a certificate of occupancy has been issued stating that the new occupancy complies with all applicable ordinances and code provisions.
- (C) Exhibits. Each application for a building permit shall be accompanied by the following exhibits unless waived by the Zoning Officer: exposed lot pins, plot plan, or certificate of survey indicating location, size, and place of proposed structure and yards, parking and loading facilities, vehicular access and egress, and utility plan including surface drainage, foliage, topography, waterways, and soil boring is to be included if pertinent.
- (D) Permit application procedure. The procedure for applying for a building permit shall be as follows.
- (1) The property owner or his or her agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits, including building plans, with the Zoning Officer or Building Official.
- (3) The Building Official shall review the application and plans and determine their compatibility with the Building Code and ordinances and code provisions.
- (4) The Zoning Officer determines the permit fee and collects the fee from the applicant. The building permit will then be issued if the proposed project complies with the provisions of this chapter.
 - (E) Expiration of building permit.
- (1) If the work described in any building permit has not begun within 90 days from the date of issuance thereof, the permit shall expire; it shall be cancelled by the Zoning Officer, and written notice thereof shall be given to the persons affected.
- (2) If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, or if no work has been done on the building for 90 days, the permit shall expire and be canceled by the Zoning Officer, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

(1997 Code, § 25.12) (Ord. passed 11-14-1994) Penalty, see § 10.99

§ 153.150 VARIANCES.

- (A) <u>Limitations</u>. Variations from the provisions of this chapter may be granted by the Board of Appeals only in instances where all of the following criteria are found to exist:
- (1) The applicant establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by ordinance. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems; and
- (2) Unusual or unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and such circumstances were not created by any persons presently having an interest in the property; and
- (3) The variance, if granted, would not alter the character of the neighborhood. The completed project would not impair an adequate supply of light and air to adjacent properties, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish property values, or have a detrimental or injurious impact on surrounding properties; and
- (4) The variance requested is the minimum variance that would alleviate the practical difficulty; and
- (5) The variance requested will not alter the essential character of the locality; and
- (6) The variance requested is in harmony with the general purpose and intent of the ordinance and consistent with the comprehensive plan.
- (B) The Board of Appeals may not permit as a variance any use that is not permitted under the ordinance for property in the zone where the affected person's land is located. However, the Board may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling.
- (C) The Board may impose restrictions and conditions upon the premises benefitted by a variance as it considers necessary so that the public health, safety, and general welfare may be secured and substantial justice done.
- (D) *Exhibits*. Application for variances shall be accompanied by the boundary survey and site plan as required for building permit applications.
- (E) Application procedure. The procedure for applying for a variance from the regulations of this chapter shall be as follows.
- (1) The property owner or his or her agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.

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Commented [**169**]: Joseph Sathe - The term "control" is unique to this section, I suggest using "ordinance" instead as is done in subsection 6. The language is <u>from Minn. Stat.</u> 462.357 subd. 6 (2).

Commented [170]: Mary Tietjen - Or change to "this Chapter"

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Commented [**171]:** Joseph Sathe - Revise the list punctuation in 1-6

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Deleted: the strict enforcement of this chapter would cause undue hardship because of circumstances unique to the individual property under consideration, and only when it is demonstrated that the variance will be in keeping with the spirit and intent of this chapter. Undue hardship, as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section M.S. § 216C.06, Subd. 2, as it may be amended from time to time, when in harmony with this chapter.

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Commented [NA172]: Can a variance be "temporary"?

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- (2) The applicant shall file the completed application form, together with the required exhibits, with the Zoning Officer and shall pay the required filing fee.
- (3) The Zoning Officer shall transmit the application and one copy of the exhibits to the Chair of the Board of Appeals and Planning Commission.
- (4) The Planning Commission shall consider the application for variance and make recommendations to the Board of Appeals.
- (5) The Board of Appeals may hold public hearings as it may consider necessary on a proposed variance.
- (D) Standards for granting variance. The Board of Appeals may vary the regulations of this chapter when supporting evidence in each specific case indicates that the criteria in subsection (A) have been met.
- (E) Recording of variance. If approved, a certified copy of the variance decision shall be filed by the applicant with the Hennepin County Recorder or Registrar of Titles.
- (F) Expiration of variance. Any variance shall expire one year after it has been granted unless:
 - (1) The project for which the variance was granted is completed within the one-year period;
 - (2) Building permits have been issued and substantial work performed; or
- (3) Upon written request of the person or corporation holding the variance, the Council extends the expiration date for the unexpired variance for an additional period.
- (G) Term of variance. If the project is completed as approved, the variance shall run with the land and remain in effect for so long as the conditions regulating it are observed.

(1997 Code, § 25.12) (Ord. passed 11-14-1994)

Commented [173]: Joseph Sathe - Consistent use of "council" or "city-council"

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- **Deleted:** (1) Because of the particular physical surroundings, shape, or topographic conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.¶
- (2) The conditions upon which the petition for a variance is based are unique to the parcel of land for which the variance is sought and are not applicable, generally, to other property with the same zoning classification: ¶
- (3) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the parcel of land; \P
- (4) The alleged difficulty or hardship is caused by the provisions of this chapter and has not been created by any persons presently or formerly having an interest in the parcel of land.¶
- (5) The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity in which the parcel of land is located.
- (6) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the vicinity; and ¶
- (7) Adherence to the regulations of this chapter would create an undue hardship because of inadequate access to direct sunlight for solar energy systems.¶

§ 153.151 CONDITIONAL USE PERMITS.

- (A) *Permit required*. Before a building or premises is devoted to any use classified under conditional uses in this chapter, a conditional use permit must be granted by the City Council following a recommendation by the Planning Commission.
 - (B) Exhibits. The following exhibits shall be required:
- (1) The boundary survey and site plan as required for building permit applications, including the property legal description; and
- (2) Elevation drawings indicating the design treatment of all proposed buildings and structures, and general floor plans of the buildings, and .
- (C) Procedures. The procedure for obtaining a conditional use permit is as follows.
- (1) The property owner or his or her agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits, with the Zoning Officer and shall pay the required filing fee.
- (3) The Zoning Officer shall transmit the application and exhibits to the Planning Commission and shall place the matter on the next available Planning Commission agenda.
- (4) The Planning Commission shall study the application to determine possible adverse effects of the proposed conditional use and to determine what additional requirements may be necessary to reduce those adverse effects, and shall recommend one of three actions: approval, denial, or conditional approval. The Planning Commission may hold public hearings as it may consider necessary on a proposal for a conditional use permit.
- (5) The Planning Commission shall transmit its recommendation to the City Council for its official action.
- (6) The City Council shall act on the application after receiving the recommendation of the Planning Commission.
 - (D) Standards for granting conditional use permits.
- (1) A conditional use permit may be granted by the City Council after demonstration by evidence that:
- (a) The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort, or general welfare;
- (b) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood;
- (c) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;

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- (d) Adequate utilities, access roads, drainage, and necessary facilities have been or will be provided;
- (e) Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and
- (f) The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
- (2) The Planning Commission may recommend, and the City Council may determine, conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as deemed necessary for the protection of the public interest and to secure compliance with the requirements specified in this chapter.
 - (E) Revocation of conditional use permits.
- (1) Where a conditional use permit has been issued pursuant to the provisions of this chapter, the permit shall become null and void without further action by the Planning Commission or the City Council unless work thereon commences within one year of the date of granting that conditional use. A conditional use permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than 12 consecutive months.
- (2) Failure to comply with any condition set forth in a conditional use permit shall be a misdemeanor and shall also constitute sufficient cause for the revocation of the conditional use permit by the City Council following a public hearing. The property owner shall be notified in advance of the City Council's review of the permit.
- (3) Inspections <u>may</u> be conducted <u>as needed</u> to determine compliance with the terms of a conditional use permit.
- (F) Amendment of a Conditional Use Permit. A previously-approved Conditional Use Permit may be amended by the City Council following the same procedures used to establish a Conditional Use Permit.

(F) Accessory uses to a conditional use. Uses and structures that are accessory to a conditional use shall be allowed as provided by this chapter, without requiring a conditional use permit amendment, unless specifically required as a condition of the conditional use permit approval.

(1997 Code, § 25.12) (Ord. passed 11-14-1994) Penalty, see § 10.99

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Commented [174]: Joseph Sathe - "-"

Commented [175]: Mary Tietjen - Any revocation should be preceded by a hearing – see (2) above.

Deleted: The City may review conditional use permits periodically and may revoke a permit upon violation of any condition of the permit.

Deleted: (F) Uses by conditional use permit not nonconforming uses. Uses authorized by conditional permit under this section shall not be deemed a non-conforming use, but shall without further action be considered a conforming use, but only in accordance with the conditions set forth in the conditional use permit.

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151.15X Interim use permits.

- (A) Purpose. The purpose and intent of allowing interim uses is:
 - (1) To allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in the Comprehensive Plan; and
 - (2) To allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
 - (3) To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the comprehensive plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.
- (B) Application, public hearing, notice and procedure. The application, public hearing, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in \$ 153.151 In addition to the general planning and zoning application requirements, applications for interim use permits shall include:
 - (1) A signed statement agreeing:
 - a. That the applicant, owner, operator, tenant and/or user has no entitlement to future reapproval of the interim use permit;
 - b. That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
 - c. That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.
 - (2) A statement addressing the relationship of the proposed project to the neighboring uses.
- (C) General issuance standards. The Planning Commission shall recommend an interim use permit and the Council shall issue such interim use permit only if it finds, based on the proposed location, that:
 - (1) The period of time for which the interim use permit is to be granted will terminate before any adverse impacts are felt upon adjacent properties;
 - (2) The use will terminate upon a date or even that can be identified with certainty.

 Interim use permits may not be granted for a period greater than five (5) years;
 - (3) The use will not adversely impact the health, safety and welfare of the community during the period of the interim use;
 - (4) The use is similar to existing uses in the area;

Commented [176]: Joseph Sathe - Why interim instead of temporary? This new section borrows almost exclusively from Richfield Ord. 547.15

Commented [177]: Mary Tietjen - "Interim" uses is the statutory term under 462.3597. It is by definition a temporary use.

This new Section seems overly complicated to me.

Commented [178]: Joseph Sathe - Italics?

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Commented [180]: Joseph Sathe - # conflict?

Commented [**181**]: Joseph Sathe - Consistent use of capitalization?

Commented [**182**]: Joseph Sathe - Italics? Remove

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Commented [**184**]: Joseph Sathe - Confirm. Remove

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Commented [**186**]: Joseph Sathe - Should not include "that" at the beginning of the sentence.

Commented [**187**]: Joseph Sathe - Consistent use of Council v. City Council

Commented [188]: Joseph Sathe - event?

Commented [189]: Joseph Sathe - ","

- 5) An interim use shall conform to zoning regulations except the City Council may waive ordinance provisions upon a finding that the temporary nature of the interim use will eliminate the adverse effects the provisions were intended to prevent;
- (6) There is adequate assurance that the property will be left in suitable condition after the use is terminated;
- (7) By agreement, the use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
- (8) The property owner, by agreement, agrees to any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit; and
- (9) The property owner agrees to abide by any additional conditions that the Council deems appropriate for permission of the use.
- (D) Security deposit. Security deposits shall be provided as required by the City.
- (E) **Termination.** An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:
 - (1) The date stated in the permit; or
 - (2) Upon violation of conditions under which the permit was issued.

- (A) *Adoption*. This chapter may be amended, changed, or altered only by a favorable majority vote of all members of the City Council, except that the adoption or amendment of any portion of this chapter which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-third's majority of all members of the City Council, and only after a public hearing has been duly advertised and held by the Planning Commission.
 - (B) Kinds of amendments. An amendment to this chapter may be one of the following:
 - (1) A change in a district's boundary (rezoning);
 - (2) A change in a district's regulations; or
 - (3) A change in any other provision of this chapter.
- (C) *Initiation of proceedings*. Proceedings for amending this chapter shall be initiated by at least one of the following three methods:
- (1) By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed;
 - (2) By recommendations of the Planning Commission; or

Commented [190]: Joseph Sathe - Are these repetitive?

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- (3) By action of the City Council.
- (D) *Exhibits*. Required exhibits for rezoning or district regulation changes initiated by a property owner are:
 - (1) The boundary survey and plot plan as required for building permit applications;
- (2) Elevation drawings indicating the design treatment of all proposed buildings and structures, and general floor plans of those buildings; and
- (3) A written narrative describing the proposed rezoning or district regulation changes and the reason for the request; and
- (E) *Procedures*. The procedure for a property owner to initiate a rezoning or district regulation change applying to his or her property is as follows.
- (1) The property owner or his or agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits, with the Zoning Officer and shall pay the required filing fee.
- (3) The Zoning Officer shall transmit the application and required exhibits to the Planning Commission. Written notice of the public hearing shall be mailed at least ten days before the date of the hearing to the property owners within the affected zone and within 350 feet of the outer boundaries of the area in question; however, failure of any property owner to receive notification shall not invalidate the proceedings.
- (4) The Zoning Officer shall have notice of the required public hearing published in the official municipal newspaper not less than ten calendar days prior to the date of the hearing.
- (5) The Planning Commission shall hold the public hearing and shall recommend one of three actions: approval, denial, or conditional approval.
- (6) The Planning Commission shall transmit its recommendation to the City Council for its official action.
- (7) The City Council shall act upon the application after receiving the recommendation of the Planning Commission.

(1997 Code, § 25.12) (Ord. passed 11-14-1994)

§ 153.153 SITE PLAN APPROVAL.

The following provisions shall govern the Site and Building Plan approval process, as they relate to the scope of the proposed construction.

(A) Site and Building Plan Approval Required. It is declared to be the policy of the city to preserve and promote attractive and stable business environments for its citizens through encouraging well-conceived, high quality developments. To this end, imaginative site design

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concepts shall be employed in the development and redevelopment of respective sites. With the exception of single family dwellings and two family dwellings, this site plan approval process applies to all new construction in the One and Two Family District (R-1), the High-Density Residential District (R-2), the Edge Mixed Use District (EMX), the Central Business District (CBD), the Highway Commercial Districts (C-2N & C-2S), and the Manufacturing and Industrial District (M) that involves one or more of the following:

- (1) New construction;
- (2) Construction or reconstruction that substantially alters the floor area of the building greater than or equal to 10%;
- (3) Construction or reconstruction involving modification or replacement of the exterior materials on the building; or
 - (4) Construction or reconstruction to change the configuration of the parking area.
- (B) Application.
- (1) Prior to commencing any construction, a Site and Building Plan application shall be initiated by the owner of subject property or by an authorized agent. The applicant shall submit a Site and Building Plan application to the Zoning Officer, copies of which are available at the municipal offices, together with a fee in an amount established by City Council resolution.
- (2) The Zoning Officer shall refer the matter to the Planning Commission by placing the application upon the agenda of the Commission's next available regular meeting.
- (C) Exhibits. In addition to the application, the following exhibits shall be required:
- (1) A survey drawing by a registered engineer or land surveyor showing pertinent existing conditions, accurately dimensioned.
- (2) A complete set of preliminary drawings prepared by a registered civil engineer or landscape architect showing:
- (a) An accurately scaled and dimensioned site plan indicating parking layout, including access provisions, location of structures, grading plans, building elevations, landscaping, including trees and shrubbery with indication of species, planting, size, and location.
 - (b) Fences, walls, or other screening, including height and type of material.
 - (c) Lighting provisions, including type and location.
 - (d) Curbs.
 - (D) Procedures. The procedure for obtaining Site and Building Plan approval is as follows.
- (1) The property owner or his or her agent shall meet with the Zoning Officer to explain his or her situation, learn the procedures, and obtain an application form.
- (2) The applicant shall file the completed application form, together with the required exhibits, with the Zoning Officer and shall pay the required filing fee.

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Commented [**195**]: Joseph Sathe - What does "available' mean?

Commented [NA196R195]: There needs to be some 'discretion' or wiggle room in placing an item on the agenda—if I get an application on Friday, it can't be considered at a meeting the following Monday even if that is the "next regular meeting". I have a set schedule of application deadlines that is established annually, which allows time for staff review of an application & proper notice of a public hearing. The deadlines end up being on a Thursday about a month before the Planning Commission meeting, but that process is not reflected in ordinance. I'm open to suggestions about how to revise this section.

- (3) The Zoning Officer shall transmit the application and exhibits to the Planning Commission and shall place the matter on the next available Planning Commission agenda.
- (4) The Planning Commission shall study the application to determine possible adverse effects of the proposed Site and Building Plan and to determine what additional requirements may be necessary to reduce those adverse effects, and shall recommend one of three actions: approval, denial, or conditional approval. The Planning Commission may hold public hearings as it may consider necessary on a proposal for Site and Building Plan approval.
- (5) The Planning Commission shall transmit its recommendation to the City Council for its official action.
- (6) The City Council shall act on the application after receiving the recommendation of the Planning Commission.
- (E) Lapse of Site and Building Plan. An approved Site and Building Plan shall lapse and become null and void one year following the date on which the application was approved, unless prior to the expiration of one year, the Building Official issues a building permit and construction is commenced toward completion on the subject site. A Site and Building Plan may be renewed for a period of one year by the City Council.
- (F) Conditions and restrictions. The Planning Commission may recommend and the City Council may impose such conditions and restrictions as deemed necessary to protect the public interest and to secure compliance with the requirements of this section. The conditions may include the execution and submission of a Performance Agreement with a supporting financial guarantee that the subject property will be constructed, developed, and maintained in conformance with the plans, specifications, and standards.

(Ord. 2005-4, passed 7-11-2005)

№ 153.154 FEES.

- (A) Fees for building permits, variances, conditional use permits, and amendments shall be established from time to time by resolution of the City Council.
- (B) Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. There shall be no fee in the case of applications filed in the public interest by the City Council. Economic Development Authority or by the Planning Commission. If a dispute arises over a specific fee, the amount of the fee shall be paid but deposited and held in escrow, and the person aggrieved by the fee may appeal to district court. An approved application shall proceed as if the fee had been paid, pending a decision of the court.

(1997 Code, § 25.12) (Ord. passed 11-14-1994; Am. Ord. 2005-4, passed 7-11-2005)

■§ 153.155 VIOLATIONS; REMEDIES NOT EXCLUSIVE.

- (A) Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Each day the violation continues shall be considered a separate offense.
- (B) The owner or tenant of any building, structure, premises, or part thereof, and any builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation as described above may be found guilty of a separate offense and suffer the penalties provided in this code.
- (C) Nothing herein contained shall prevent the city from taking other lawful action as is necessary to prevent or remedy any violation.

(1997 Code, § 25.12) (Ord. passed 11-14-1994; Am. Ord. 2005-4, passed 7-11-2005) <u>Penalty, see § 10.99</u>

₽§ 153.156 JUDICIAL REVIEW.

Any person aggrieved by a decision or order of the City Council or Board of Appeals acting pursuant to this chapter may have the decision or order reviewed by an appropriate remedy in the District Court, subject to the provisions of state law.

(1997 Code, § 25.12) (Ord. passed 11-14-1994; Am. Ord. 2005-4, passed 7-11-2005)

Notwithstanding anything in this chapter to the contrary, the provisions of M.S. \S 15.99, as it may be amended from time to time, and the following sections shall govern the process for making decisions under this chapter. To the extent to which these sections conflict with the provisions of M.S. \S 15.99, as it may be amended from time to time, the provisions of the statute shall apply.

(Am. Ord. 2005-4, passed 7-11-2005)

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(A) Notwithstanding anything to the contrary in this chapter, all applications for any city approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the city, if the city has a form, to the Zoning Officer. The Zoning Officer is authorized to reject in writing any incomplete application as provided in M. S. 15.99, as it may be amended from time to time. This rejection shall be sent by first-class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.



(Am. Ord. 2005-4, passed 7-11-2005)

(A) As required by M.S. § 15.99, as it may be amended from time to time, the following provisions apply to the process for approving or denying applications which requires a city approval under chapter.



(Am. Ord. 2005-4, passed 7-11-2005)

§ 153.160 ADDITIONAL EXTENSIONS OF TIME.

Minnesota Statutes § 15.99, as it may be amended from time to time, provides for certain exceptions to the time limits established in § 153.159. These exceptions are as follows. If the provisions of M.S. § 15.99, as it may be amended from time to time, are inconsistent with this section, then the provisions of that statute shall apply.



(Am. Ord. 2005-4, passed 7-11-2005)

Sections <u>153.157</u> through <u>153.159</u> shall not apply to any request for action under the city's subdivision regulations or under M.S. § 462.358 or Ch. 505, as they may be amended from time to time. Neither shall they apply to request for a building permit.

(Am. Ord. 2005-4, passed 7-11-2005)

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Deleted: within 15 business days of receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing

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Deleted: (B) If a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court

Commented [NA199]: KG to revise to remove duplication of statue language in ordinance

Deleted: for a zoning amendment, site plan, conditional use permit, land use permit, variance, or any other application

Commented [SJL202]: Minn. Stat. 15.99, subd. 2 (c)

Deleted: (B) The city shall take final action to approve or deny an application described above within 60 days of receiving an application, unless the application is not accepted under § 153.156. If the city cannot take action to approve or deny the application within 60 days of receiving the application, the Zoning Administrator Officer is authorized before the end of the initial 60-day period, to make a one-time extension of the time for taking action by providing written notice by first-class mail to the applicant of the extension, the reasons for the extension, and its anticipated length, which may not exceed an additional 60 days unless approved by the applicant in writing.

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Deleted: (D) Except as provided in division (C), if the					
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APPENDIX A: LOT REQUIREMENTS AND STANDARDS

APPENDIX B: OFF-STREET PARKING SPACE REQUIREMENTS

APPENDIX C: DISTRICT SIGN REGULATIONS

APPENDIX D: ZONING MAP

APPENDIX A: LOT REQUIREMENTS AND STANDARDS

							Setbacks	f					
Zoning District	Building Height Max. (feet) ^e	Access. Height Max. (feet)	Lot Size Min (s.f)	Lot Width Minimum (feet)	Front Yard (Feet)	Corner Side Yard (Feet)	Side Interior (Feet)	Rear Yard (Feet)	Accessory Side/Rear Yard (Feet) (Alley)	Minimum Area Per Dwelling Unit (sq. feet)	Dwelling Floor Area Ratio	Max. Impervious Surface(%)	
R-1											0		
One- family	25	10 ^g	8,250	50	25	25 °	15 ^b	5	5			50%	
Two- family	25	10 ^g	10,000	50	25	25 °	15 b	5	5			50%	
R-2													
Multiple family	35 (65)b	10g	21,780,	130	35,	25,	<u>10</u> ,	<u>10</u> ,			N/A	60%	
Efficiency		▼	v	y						400	▼	v	
1- bedroom		▼	.							525	¥		
2- bedroom		V						·		650	v	•	
More		•	•		•		•			Add 125 s.f. each	¥		
										bedroom			
CBD	45	15	7,200	50	0	0	0 ^d	0	0	N/A	N/A	100%	
C-2	35	15	7,200	<u>50</u>	20	20	10	10	<u>_10</u>	N/A	1	60%	
M	40	15	20,000	100	20	20	10	10	<u>10</u>	N/A	1	-	

Definitions:

43,560 square feet = 1 acre

Floor area ratio = total floor area of principal and accessory structure in direct ratio to the gross area of the lot

Notes

^a 65 ft. if structure is designed for multiple residents

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- ^b On interior lots, there must be at least 15 feet between dwellings with a minimum of 5 feet from the lot line
- ^c The buildable principal structure area must not be less than 32 feet in width, exclusive of setbacks
- d When a commercial building shares a common boundary with a residential use property, a side yard set back of 10 feet is required
- ^c The building height limits established herein for districts shall not apply to the following: belfries; chimneys or flues; church spires; cooling towers; cupolas and domes which do not contain useable space; elevator penthouses; flag poles; monuments; parapet walls extending not more than 3 feet above the limiting height of the building
- ^f The following shall not be considered as encroachment on required yard setbacks:
- (1) Flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two feet into the required yard
- (2) Ground level patio, i.e., patio that is flush with the ground
- (3) In rear yards, recreational and laundry drying equipment, arbors and trellises, detached outdoor living rooms, and air conditioning or heating equipment to a point not less than ten feet from the rear lot line
- (4) A one-story enclosed entrance for a detached one-family, duplex, or townhouse dwelling may extend into the front yard setback not exceeding four feet
- g Except private garages are allowed to be up to 15 feet in height



Memorandum

To: Nancy Abts, Osseo Planner

From: Molly Just, AICP

Date: January 16, 2020

Re: Excavation/grading Without a Permit

The City of Osseo has requested that WSB provide the amount of grading that other communities allow before a permit is required. The idea being to allow residents to conduct minor and reasonable amounts of earth movement without being in violation of City permitting requirements. Our responses are based on generally level and dry sites not within proximity of steep slopes, a waterway or surface water and where the activity would not change the grade of the area. Since each community picks their own limit, the criteria can vary but after applying criteria to a flat, developed residential lot, not near water, you can observe a trend in the amount allowed without a permit.

Please let me know if I may be of additional assistance in this matter.

Amount of excavation/grading that does not trigger a permit.				
Robbinsdale*	35 cubic yards			
Orono*	50 cubic yards			
Tonka Bay*	50 cubic yards			
Lakeville*	50 cubic yards			
Waseca*	10 cubic yards			
Mahtomedi*	10 cubic yards			
Litchfield*	50 cubic yards			

Consult the City Code for further information.



Memorandum

To: Nancy Abts, Osseo Planner

From: Molly Just, AICP

Date: January 16, 2020

Re: Considerations for Off-Street Parking Standards

Overview. The City of Osseo has requested that WSB provide an opinion on the reasonableness of staff's proposed off-street parking space dimensions. Considerations for off-street parking are very different from those for on-street parking in the public right-of-way. Public rights-of-way exist for the safe movement of people and goods, not to store vehicles. Off-street parking standards are set by the City and implemented/built by property owners and developers/businesses.

Context. The City of Osseo is in the process of updating its zoning code to encourage a form of development consistent with its 2040 Comprehensive Plan. To encourage this type of development, staff has recommended a variety of parking stall dimensions. These stall dimensions reflect common standards for a vibrant mixed-use condition, as well as those for single-use conditions, such as a grocery store or office building. It is a community's land uses that attract visitors, residents, and jobs, not its parking lots.

Staff proposes three categories of parking space, compact size, low turn-over, and full size. For each category there is a dimension to correspond with common angles of parking space. Generally, parallel, angled, and 90-degree (face in). WSB has reviewed the proposed dimensions for each type of space and finds them within the range of typical for that type of space in the existing and proposed condition in Osseo.

Conclusion. WSB supports staff's recommendations for parking stall standards that reflect the current and envisioned conditions in Osseo.