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Title: Amending Legislative Code Chapters 60, 61, 62, 63, 65 & 69 to correct errors, and update and clarify language.

Sponsors: Russ Stark

Indexes:

Code sections:

Attachments: 1. MinorTextAmendmentsPCResolutionFeb2015, 2. Ch 60-63 65 & 69 related Minor Text Amendments FOR COUNCIL, 3. Ch 60-63 65 & 69 related Minor Text Amendments NPC to PC memo 02062015

Date	Ver.	Action By	Action	Result
8/7/2015	1	Mayor's Office	Signed	
7/30/2015	1	Mayor's Office	Signed	
7/22/2015	1	City Council	Adopted	Pass
7/15/2015	1	City Council	Adopted	Pass
7/8/2015	1	City Council	Laid Over to Third Reading/Public Hearing	
7/1/2015	1	City Council	Laid Over to Second Reading	

Amending Legislative Code Chapters 60, 61, 62, 63, 65 & 69 to correct errors, and update and clarify language.

STATEMENT OF FINDINGS BY THE COUNCIL

WHEREAS, Policies 2.21, 2.22, and 2.23 of the Land Use chapter of the *Saint Paul Comprehensive Plan* call for study of zoning code amendments pertaining to industrial districts and regulation of industrial uses; and

WHEREAS, § 61.801 of the zoning code calls for periodic review of the zoning code to reflect current city policies, to address current technology and market conditions, and to bring the zoning code up-to-date; and

WHEREAS, the Planning Commission, on October 22, 2014, released for public review draft minor text amendments to Chapters 60 - 63, 65 and 69, and set a public hearing for December 5, 2014; and

WHEREAS, a public hearing on the proposed minor text amendments was conducted by the Planning Commission on December 5, 2014 at which all persons present were allowed to testify; and

WHEREAS, the Planning Commission considered the public testimony and the recommendations of its Zoning Committee on the proposed amendments to Chapters 60 - 63, 65,& 69 of the Zoning Code, and made its recommendations to the Mayor and City Council on February 6, 2015; and

WHEREAS, a public hearing before the City Council having been conducted at which all interested parties

were given an opportunity to be heard, the Council having considered all the facts and recommendations concerning the amendments; NOW THEREFORE,
THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:
SECTION 1

Legislative Code Chapter 60, is hereby amended as follows:

ARTICLE I. 60.100. GENERAL PROVISIONS AND EXCEPTIONS

Sec. 60.104. - Construction of language.

The following rules of construction apply to the text of this code:

...

~~(e)~~—The word "building" includes "structure" and any part thereof.

~~(e)(f)~~ The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."

~~(f)(g)~~ The word "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.

~~(g)(h)~~ Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:

...

~~(h)(i)~~ "Abut" means having a common boundary or relationship at ~~either~~ a common property line, street or alley.

~~(i)(j)~~ "Adjacent" means located nearby, with or without contact.

~~(j)(k)~~ "Adjoin" means having a common boundary or relationship at a common property line.

~~(k)(l)~~ "Contiguous" means abutting.

~~(l)(m)~~ A "-" shall mean "through" when used between zoning district abbreviations within a land use category, e.g., "RT1-RM2" residential districts shall mean RT1, RT2, RM1, and RM2 residential districts.

ARTICLE II. 60.200. GENERAL DEFINITIONS

Sec. 60.214. M.

...

~~Master plan.~~ A plan for a specific site proposed for development or redevelopment under the provisions of the TN3 district, in order to demonstrate compliance with the intent of the district.

Sec. 60.216. O.

...

~~Open space.~~ Land and water areas retained for use as active or passive recreation areas or for resource protection. For the calculation of minimum open space within a TN3 traditional neighborhood district development, open space shall not include parking facilities, driveways, utility or service areas, or required yards.

Sec. 60.217. P.

...

~~Planning district.~~ One (1) of seventeen (17) geographic areas delineated, and from time to time amended, by the city council to facilitate citizen participation, early notification of proposed city actions, and planning for the purpose of determining concentration of community residential facilities. ~~Planning District Thirteen is divided into three (3) separate planning districts: Merriam Park, Snelling-Hamline and Lexington-Hamline.~~ An official map of the designated areas is maintained by the department of planning and economic development.

Sec. 60.220. S.

...

~~Swimming pool.~~ A pool or tub constructed either above or below grade and having a capacity of five thousand (5,000) or more gallons.

Sec. 60.227. Z.

...
Zoning conditional uses and variances

(1) *Conditional uses:* A conditional use is a use permitted only after review and approval of an application by the planning commission, or the planning or zoning administrator where delegated to do so pursuant to section ~~61.300~~ 61.202(c).

(2) *Variance:* A modification of the literal provisions of the zoning code granted when strict enforcement of the zoning code would cause ~~undue hardship~~ practical difficulties owing to circumstances unique to the individual property on which the variance is granted. There are two (2) categories of variances:

...

ARTICLE III. 60.300. ZONING DISTRICTS AND MAPS GENERALLY

Sec. 60.301. Zoning districts established.

For the purposes of this code, the city is hereby divided into the following zoning districts:

...

- (g) Overlay districts.
 - SF state fair parking and vending overlay districts
 - TP tree preservation overlay district
 - SD Shepard Davern commercial and residential redevelopment overlay districts
 - WB White Bear Avenue overlay district
 - HV Hillcrest Village overlay district
 - EG East Grand Avenue overlay district
 - SH Student housing neighborhood impact overlay district
- (i) Floodplain management overlay districts
 - FW floodway overlay district
 - FF flood fringe overlay district

SECTION 2

Legislative Code Chapter 61, Administration and enforcement, is hereby amended as follows:

ARTICLE. I. 61.100. GENERAL PROVISIONS

Sec. 61.107. Conditions of approval.

The planning commission, planning or zoning administrator, board of zoning appeals, or city council may impose such reasonable conditions and limitations in granting approval of a site plan, conditional use permit, similar use determination variance or other zoning approval, ~~and in making a similar use determination,~~ as are determined to be necessary to fulfill the ~~spirit intent~~ intent and purpose of the zoning code, to ensure compliance, and to protect adjacent properties and additionally, when approving a variance, as are directly related to and roughly proportionate to the impact of the variance.

ARTICLE. III. 61.300. GENERAL APPLICATION AND REVIEW PROCEDURES

...

Sec. 61.302. Application forms and fees.

...

(b) *Fee schedule.* Fees for the following zoning control applications shall be as follows:

...

(8) *Rezoning:* One thousand two hundred dollars (\$1,200.00) up to one (1) acre of land, two hundred fifty dollars (\$250.00) for each additional acre of land, and an additional fee of five hundred dollars (\$500.00) for rezoning to ~~TN3(M) Traditional Neighborhood~~ any Zoning District with a master plan and an additional fee of

one thousand dollars (\$1,000.00) for rezoning to PD Planned Development District.

ARTICLE. IV. 61.400. SITE PLAN REVIEW

Sec. 61.402. Site plan review by the planning commission.

(a) *Plan to be submitted.* A site plan shall be submitted to and approved by the planning commission before a permit is issued for grading or the erection or enlargement of any building except one- and two-family dwellings, and including the following:

(4) Any development in a TN district.

...

(c) *Site plan review and approval.* In order to approve the site plan, the planning commission shall consider and find that the site plan is consistent with:

...

(5) The arrangement of buildings, uses and facilities of the proposed development in order to ~~assure~~ ensure abutting property and/or its occupants will not be unreasonably affected.

...

(d) *Compliance and time requirements.* The planning commission may make such requirements with respect to the above matters as to ~~assure~~ ensure compliance with them. When changes are required, the revised site plan shall be submitted within six (6) months from the date the applicant was notified of required changes. The zoning administrator may grant extensions. The property must be brought into compliance with the approved site plan within one year of the date of approval or as otherwise specified by the zoning administrator.

ARTICLE. V. 61.500. CONDITIONAL USE PERMITS

Sec. 61.503. Conditional use permit, change requiring new permit.

...

(b) The floor area of a conditional use expands by fifty (50) percent or more. For a conditional use existing on October 25, 1975, expansion is the sum of the floor area of all the expansions since then. For a conditional use established after October 25, 1975, expansion is the sum of the floor area of all the expansions since being established. Floor area does not include floor area which is accessory to a principal use and which does not result in the expansion of a conditional use.

(d) The building containing a ~~new~~ conditional use is torn down and a new building is constructed, even if the new building contains the same or less floor area.

Sec. 61.505. Conditional use permits, automatic expiration.

Unless expressly provided by the planning commission, when a use requiring a conditional use permit is discontinued or ceases to exist for a continuous period of ~~three hundred sixty-five (365) days~~, one (1) year, or when a conditional use changes to a permitted use not requiring a conditional use permit, the conditional use permit shall automatically expire. Except for conditional use permits for a college, university, seminary, or similar institution of higher learning if the lot area of a conditional use is subsequently reduced in size, unless the reduction results from acquisition by governmental agencies for public improvements or uses, the conditional use permit shall automatically expire. If a conditional use becomes nonconforming and subsequently is discontinued or ceases to exist for a continuous period of ~~three hundred sixty-five (365) days~~, one (1) year, the conditional use permit shall automatically expire. When an approved conditional use is not established in accordance with section 61.105, or is established and subsequently changed to a conditional use requiring a new permit under section 61.503, the conditional use permit shall automatically expire.

ARTICLE. VI. 61.600. VARIANCES

Sec. 61.601. Variances.

The board of zoning appeals and the planning commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:

(a) The variance is in harmony with the general purposes and intent of the zoning code.

(b) The variance is consistent with the comprehensive plan.

- (ca) ~~The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in question cannot be put to a reasonable manner not permitted by use under the strict provisions of the code;.~~ Economic considerations alone do not constitute practical difficulties.
- (db) ~~The plight of the landowner is due to circumstances unique to the property; and these circumstances were not created by the landowner;.~~
- (e) ~~The proposed variance is in keeping with the spirit and intent of the code; and is consistent with the health, safety, comfort, morals and welfare of the inhabitants of the City of Saint Paul;~~
- (d) ~~The proposed variance will not impair an adequate supply of light and air to adjacent property; nor will it alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area;~~
- (e) ~~The variance, if granted, would will not permit any use that is not allowed permitted under the provisions of the code for the property in the zoning district where the affected land is located. ; nor would it alter or change the zoning district classification of the property; and~~
- (f) ~~The request for variance will not alter the essential character of the surrounding area is not based primarily on a desire to increase the value or income potential of the parcel of land.~~

In granting a variance, the board or commission shall make written findings stating the grounds upon which the variance is justified. ~~Hardship as described in the finding set out in subsection (a) above shall include the need for Inadequate access to direct sunlight for solar energy systems~~ constitutes a practical difficulty in finding (c) above.

SECTION 3

Legislative Code Chapter 62, Nonconforming lots, uses and structures, is hereby amended as follows:

Sec. 62.109. Nonconforming use permits

- (d) *Expansion or relocation of nonconforming use.* The planning commission may permit the expansion or relocation of a legal nonconforming use if the commission makes the following findings:
 - (1) In residential districts, the expansion, or relocation will not result in an increase in the number of dwelling units;
 - (2) For expansion of a structure, the expansion will meet the yard, height and percentage of lot coverage requirements of the district;
 - (3) The appearance of the ~~enlargement~~ expansion or relocation will be compatible with the adjacent property and neighborhood;
 - (4) Off-street parking is provided for the ~~enlargement~~ expansion or relocation that meets the requirements of article 63.200 for new uses;
 - (5) Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use;
 - (6) After the ~~enlargement~~ expansion or relocation, the use will not result in an increase in noise, vibration, glare, dust, or smoke; be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare;

...

SECTION 4

Legislative Code Chapter 63, Regulations of General Applicability, is hereby amended as follows:

ARTICLE.I. 63.100. GENERAL PROVISIONS AND PERFORMANCE STANDARDS

Sec. 63.119 - Sec. 63.121. Reserved.

Sec. 63.120. Private residential pools and hot tubs.

~~Private outdoor residential pools, both above and below ground, and hot tubs are permitted as an accessory use within the rear yard or nonrequired side yard; except that, for multiple family developments, the planning commission may determine the location of the pool or tub. Private outdoor pools and hot tubs shall meet the following requirements as applicable:~~

- (a) ~~There shall be a distance of not less than ten (10) feet between the adjoining property line and the outside of the pool wall for aboveground pools. For in-ground pools, there shall be a distance of not less than five (5) feet between the adjoining property line and the outside of the pool wall.~~

- (b) ~~There shall be a distance of not less than four (4) feet between the outside pool wall and any building located on the same lot.~~
- (c) ~~No swimming pool shall be located less than ten (10) feet from any side street or alley right-of-way, or the distance required for side yard by the zoning code, whichever is greater.~~
- (d) ~~No swimming pool shall be located in a public easement.~~
- (e) ~~All yards of one- and two-family structures containing swimming pools shall be enclosed by an obscuring fence not less than four (4) feet in height. All yards of residential structures of three (3) or more units and commercial structures containing swimming pools shall be enclosed by an obscuring fence not less than five (5) feet in height. The gates shall be of a self-closing and self-latching type, with the latch on the inside of the gate, not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use.~~
- (f) ~~All yards containing hot tubs shall be secured as in subsection (5) above or shall have a cover which shall be locked when the hot tub is not in use.~~

Sec. 63.121. Radio and television antennas.

Antennas, including single satellite dish TVRO's three (3) meters or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, ham radio transmitters and television receivers, are permitted as accessory uses in all zoning districts and shall meet the following requirements:

- (a) ~~Accessory antennas shall not be erected in any required yard, except a rear yard, and shall be set back a minimum of three (3) feet from all lot lines.~~
- (b) ~~Guy wires or guy wire anchors shall be set back a minimum of one (1) foot from all lot lines.~~
- (c) ~~Accessory antennas and necessary support structures, monopoles or towers may extend a maximum of fifteen (15) feet above the normal height restriction for the affected zoning district.~~

...

Sec. 63.304. Parking location, nonresidential.

Off-street parking for other than residential use shall be either:

- (a) On the same zoning lot as the building it is intended to serve; or
- (b) In a VP vehicular parking district, the same or a less restrictive zoning district as the principal use, or within a more restrictive zoning district providing the principal use is also an allowed use in that zone; ~~¶this parking shall be located within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot; or~~

...

Sec. 63.316. Paving.

All parking spaces, driveways and off-street parking facilities shall be paved with standard or pervious asphalt or concrete, or with brick, concrete or stone pavers, or material comparable to the adjacent street surfacing, in accordance with specifications of the zoning administrator, within one (1) year of the date of the permit except as provided in section 61.402(e). For one-family and two-family dwellings, driveway pavement may be limited to wheel tracks at least two (2) feet wide.

For one-family through four-family dwellings, and for townhouses ~~with garage doors that face and front on a public street~~, driveways that access a public street in front yards shall be no more than twelve (12) feet in width, except that a driveway may be up to four (4) feet wider than the garage door within 30 feet of the garage door. The total amount of paving for surface parking spaces for one-family and two-family dwellings shall not exceed fifteen (15) percent of the lot area or one thousand (1000) square feet, whichever is less.

...

SECTION 5

Legislative Code Chapter 65, Land use definitions and development standards, is hereby amended as follows:

ARTICLE VII. 65.900. ACCESSORY USES

Sec. 65.910. Accessory use or accessory.

A building, structure or use which is clearly incidental to, customarily found in connection with, and (except as provided in section 63.300) located on the same zoning lot as, the principal use to which it is related.

When "accessory" is used in the text, it shall have the same meaning as "accessory use."

An accessory use includes, but is not limited to, the following:

...

- (p) ~~Radio and television receiving antennas including satellite receiving dishes, or short-wave transmit/receive antennas designed for dispatching or use with household electronic equipment including "ham" radio equipment, subject to the regulations in section 62.117.~~

Sec. 65.911. Antenna, radio and television receiving.

A wire, set of wires, metal or carbon fiber element(s), including no more other than one (1) satellite dish antennas three (3) meters or less in diameter, used to receive radio, television or electromagnetic waves, and including the supporting structure thereof, permitted as accessory uses in all zoning districts.

Standards and conditions:

- (a) Accessory antennas shall not be erected in any required yard, except a rear yard, and shall be set back a minimum of three (3) feet from all lot lines.
- (b) Guy wires or guy wire anchors shall be set back a minimum of one (1) foot from all lot lines.
- (c) Accessory antennas and necessary support structures, monopoles or towers may extend a maximum of fifteen (15) feet above the normal height restriction for the affected zoning district.

Sec. 65.912. Antenna, short-wave radio transmitting and receiving.

A wire, set of wires or a device, consisting of a metal, carbon fiber or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave radio communications, and including the supporting structure thereof, permitted as an accessory use in all zoning districts.

Standards and conditions:

See section 65.911. Antenna, radio and television receiving.

Secs. 65.913 - 65.9149. Reserved.

Sec. 65.915. Hot tub, outdoor.

Standards and conditions:

All yards containing hot tubs shall be secured as required in section 65.923(e) or shall have a cover which shall be locked when the hot tub is not in use. A hot tub shall be located at least three (3) feet away from any lot line.

Secs. 65.916 - 65.919. Reserved.

Sec. 65.922. Support services in housing for the elderly.

Support services within elderly housing as defined in section 65.1231 including limited food service, beauty salon and retail goods and sales areas.

Development standard in residential districts:

Support service areas shall not exceed five (5) percent of designated community room area.

Sec. 65.923. Swimming pool, outdoor.

A pool or tub constructed either above or below grade and having a capacity of five thousand (5,000) or more gallons.

[Definition moved here from § 60.220.]

Standards and conditions:

- (a) There shall be a distance of not less than ten (10) feet between the adjoining property line and the outside of the swimming pool wall for aboveground pools. For in-ground swimming pools, there shall be a distance of not less than five (5) feet between the adjoining property line and the outside of the pool wall.
- (b) There shall be a distance of not less than four (4) feet between the outside swimming pool wall and any building located on the same lot.
- (c) A swimming pool shall not be located in a required front or side yard, less than ten (10) feet from any street or alley right-of-way, or in a public easement.
- (d) A hot tub shall not be located in a required front or side yard, less than three (3) feet from any lot line, or in a public easement.
- (e) All yards of one- and two-family structures containing swimming pools shall be enclosed by an obscuring fence

not less than four (4) feet in height. All yards of residential structures of three (3) or more units and commercial structures containing swimming pools shall be enclosed by an obscuring fence not less than five (5) feet in height. The gates shall be of a self-closing and self-latching type, with the latch on the inside of the gate, not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use.

SECTION 6

Legislative Code Chapter 69, Subdivision Regulations, is hereby amended as follows:

ARTICLE III. 69.300. GENERAL PROVISIONS PERTAINING TO SUBDIVISION APPROVAL AND PLATTING REQUIREMENTS

Sec. 69.306. Planning administrator and board of zoning appeals approval.

...

(d) A notice of decision shall be provided by United States Mail to all record owners of adjoining property as listed on the property tax records in the Office of the Ramsey County Recorder. This notice shall be provided on the same date that any preliminary or final decision regarding a lot split or adjustment of common boundary application is provided to the applicant.

SECTION 7

This ordinance shall become effective thirty (30) days after its passage, approval and publication.