



**STAFF REPORT**

DATE: 1-22-2024

Item#: 5c – Public Hearing

**Motion**

**TO:** Planning Commission  
**FROM:** Sophia Jensen, City Planner  
**AGENDA ITEM:** **Zoning Text Amendment – Housekeeping Items**  
**REVIEWED BY:** Nathan Fuerst, Bolton and Menk Consulting Planner  
Jenni Faulkner, Bolton and Menk Consulting Planner  
Tim Solomonson, HKGi Landscape Architect

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**BACKGROUND:**

Over the last year City Staff have identified a handful of minor ordinance corrections that are required to create consistency and clarity with the City Code and other guiding documents. Processing these amendments is on the 2024 Planning Commission Work Plan.

**ISSUE BEFORE THE PLANNING COMMISSION:**

The Planning Commission is being asked to hold a public hearing and make a recommendation to the City Council on the proposed amendments.

**PROPOSAL DETAILS:**

Sections under review:

- **105.12.110(b)(1)**
- **105.12.1050(6)(b)**
- **105.12.790**
- **1.08.010**
- **105.12.480**
- **105.12.260**

**ANALYSIS OF PROPOSALS:**

Proposed language is underlined. Deleted language is shown with a ~~strikethrough~~.

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**105.12.110(B)(1):** The intent of these amendment is to account for rental townhomes, which may be on the same lot. This would also eliminate the conflict with the Village Design Standards Manal, which allows units on the same lot. The second part of this amendment is to clarify definitions for housing types within the City.

**Proposed Language:**

1. *Residential and related uses.*
  - a. *Family living.*

*Live-work unit* means a dwelling unit in combination with a shop, office, studio, or other work space within the same unit, where the resident occupant both lives and works.

*Manufactured home park* means a development on a site under a single ownership which consists of

two or more spaces for the placement of manufactured homes for dwelling or sleeping purposes, regardless of whether or not a fee is charged for the utilization of such space.

*Multifamily residential* means a building containing three or more dwelling units served by one or more shared entrance. The term "multifamily residential" includes cooperative apartments and condominiums, but not condominium-hotels. (See condominium and condominium-hotel under LEC 1.08.)

*Secondary dwelling* means a residential dwelling unit, but not a manufactured home, located on the same lot as a single-family dwelling unit, either within the principal structure or above a detached garage.

~~*Single-family, attached or Townhomes*, means a building containing one dwelling unit attached to another building containing only one dwelling unit, with each building on a separate lot. means a building containing independent dwelling units adjacently attached to each other, each with separate exterior entrances at the ground floor. Single-family attached must contain more than two units, but not to exceed eight total units. The units may be on the same, or separate, lots.~~

*Single-family, detached*, means a building containing only one dwelling unit, surrounded by landscape area or yards on all sides.

*Two-family or duplex* means a building on a single lot or adjacent lots containing two dwelling units, either side-by-side or stacked vertically.

**105.12.1050(6)(b)** The intent of these changes is to create clarity for applicants on the City’s practice of imposing the greater restriction between conflicting provisions as stated in LEC 1.04.030

**Proposed Language:**

*Lot specific buildable areas.*

1. The buildable area on each proposed lot which remains after consideration of each of the following shall be shown:
  1. Required buffers from adjacent lands (See LEC 105.12.170(b));
  2. Required setbacks from waterbodies and non-buildable land per shoreland district regulations (See LEC 105.12, art. XIX);
  3. Steep slopes;
  4. Easements; and
  5. Land within the following setbacks:

	<i>Housing Type</i>	
	<i>Single-Family Homes</i>	<i>Townhomes</i>
Front yard	30	20
Side yard	15 feet or ten percent of lot width, <u>whichever is greater</u>	
Corner lot front yard	30	
Corner lot street side yard	30	
Rear yard	20	

**105.12.790** The intent of these amendments is to correct standard references and language in Table 11-2.

**Proposed Language:**

Lot area and setback requirements shall be as specified in Table 11-2, Lot Dimension and Setback Requirements.

Table 11-2: Lot Dimension and Setback Requirements, Villages Districts

	<i>V-LDR</i>	<i>V-MDR</i>	<i>V-HDR</i>	<i>VMX</i>
Minimum Lot Area (square feet): <sup>a</sup>				
Nonresidential use	-	-	-	None
Single-family detached dwelling	9,000	7,000	-	9,000
Two-family dwelling (per unit) <sup>b</sup>	-	4,000	-	4,000
Single-family attached (per unit) <sup>c</sup>	-	2,500	-	3,000
Multifamily dwelling (per unit)	-	3,000	1,800	2,800
Secondary dwelling	See LEC 105.12.740 (c)	-	-	See LEC 105.12.740(c)
Congregate housing	-	-	-	LEC 105.12.500(c)
Minimum Lot Width (feet):				
Single-family detached dwelling	70	50	-	70
Two-family dwelling (per unit) <sup>b</sup>	-	30	-	30
Single-family attached (per unit) <sup>c</sup>	-	25	-	25
Multifamily dwelling (per building)	-	75	60	75
Live-work unit	-	25	-	25
Maximum height (feet/stories)	35	35/3 <sup>d</sup>	50	35/3 <sup>d</sup>
Maximum Impervious Coverage:				
Residential lots	35 percent	50 percent	75 percent	75 percent
Other	-	-	-	No Limit
Minimum Building Setbacks (feet):				

Front yard	25	25	25	<p><del>Single-Family Detached and Attached—25</del>  <del>Multifamily Dwellings: LEC 105.12.830(a)(6)a</del>  <del>Non-Residential Uses: LEC 105.12.830(b)</del></p> <p><u>Single-Family Detached and Attached - 25</u>  <u>Multifamily Dwellings: - 25</u>  <u>Non-Residential Uses: - 25</u></p>
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Interior Side Yard:

Principal building	10	10	10	10 <sup>e</sup>
Attached garage or accessory structure	5	5	5	5
Corner side yard	15	15	15	0 <sup>f</sup>
Rear yard	20	20	20	10 <sup>g</sup>

Notes to Village Districts Table:

a. No development may exceed the residential density range as specified in the comprehensive plan for the corresponding land use category.

b. Two-family units may be side-by-side with a party wall between them (twin) or located on separate floors in a building on a single lot (duplex). The per-unit measurements in this table apply to twin units, whether on a single lot or separate lots. The standards for single-family detached dwelling shall apply to a duplex containing two vertically-separated units on a single lot.

c. In the case of single-family attached dwellings that are not situated on individual lots, minimum lot size shall be applied to each unit as a measure of density; i.e., one unit per 2,500 square feet. This standard is also used for multifamily dwellings.

d. Buildings up to 45 feet in height may be permitted as part of a PUD in the VMX district and V-MDR districts.

e. Side yard setbacks in the VMX district apply only along lot lines abutting residentially zoned parcels or those parcels with residential uses as the sole use.

f. Corner properties. The side yard facade of a corner building adjoining a public street shall maintain the front setback of the adjacent property fronting upon the same public street, or the required front yard setback, whichever is less. If no structure exists on the adjacent property, and provided required setbacks are not otherwise stated herein, the setback shall be shown in the table.

g. Properties zoned V-LDR abutting Stillwater Boulevard North (CSAH 14), Lake Elmo Avenue North (CSAH 17) north of Stillwater Blvd (CSAH 14), and Manning Avenue North (CSAH 15) shall have a minimum structure setback of 50 feet.

**1.08.010 Terms Defined.** The intent of these changes is to create consistency with the definitions in the zoning code (105.12.110) and to clear up discrepancy among definitions.

**Proposed Language**

~~*Two-family or Duplex* means a residential structure containing two dwelling units located on one parcel of land a building on a single lot or adjacent lots containing two dwelling units, either side by side or stacked vertically.~~

*Dwelling* means a building, or one or more portions of a building, occupied or intended to be occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boardinghouses, nor trailers, tents, cabins, or trailer coaches. (See *Dwelling unit*.)

~~*Dwelling, duplex, or two family* means a residential building containing two complete dwelling units.~~

*Dwelling, multiple-multifamily, or apartment building* means a residential building, or portion of a building, containing three or more dwelling units ~~served by a common entrance.~~ served by one or more shared entrance

*Dwelling, seasonal,* means a residential building not capable of year-round occupancy due to non-winterized construction or inadequate nonconforming year-round on-site sewage treatment systems.

*Dwelling, single,* means a residential building containing one detached dwelling unit.

*Dwelling, single-family,* means a residential structure designed for or used exclusively as one dwelling unit of permanent occupancy.

~~*Dwelling, single family attached,* means two single family dwellings sharing one or more common wall, each on its own individual lot.~~

*Dwelling, single-family detached,* means a single-family dwelling that is surrounded by yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

~~*Dwelling, Single family attached, or-Townhouse,* means a residential building containing three or more dwelling units with at least one common wall between adjacent residences and each unit so oriented as to have all exits directly to the out-of doors. means a building containing independent dwelling units adjacently attached to each other, each with separate exterior entrances at the ground floor. Single-family attached must contain more than two units, but not exceed eight total units. The units may be on the same, or separate, lots.~~

*Dwelling unit* means a residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used, or intended for use exclusively as living quarters for one family.

**105.12.480(b) and (e) and (g) Landscape Requirements.** The intent of these changes is to clean up grammatical errors, provide greater clarity on location requirements, and follow best practices provided by our Landscape Architect (HKGi).

**Proposed Language:**

*(b) Design considerations.* The following design concepts and requirements shall be considered when developing a landscape plan.

1. To the maximum extent possible, the landscape plan shall incorporate, preserve and protect, existing significant trees and other healthy, non-invasive vegetation on the site.
2. Landscaped areas should be of adequate size to allow for healthy plant growth, to a typical mature size without impeding on roads, walks, trails, buildings or other areas needed for service access or public safety. Planting areas should provide adequate areas for plant maintenance.
3. A variety of trees and shrubs should be used to provide visual interest year-round. No more than ~~50~~ 25 percent of the required number of trees and shrubs may consist of any one ~~species~~ taxonomic genus. A minimum of

25 percent of the required number of trees shall be deciduous shade trees, and a minimum of 25 percent shall be coniferous trees. Ornamental trees may be used when applied towards landscaping requirements. However, the number of trees shall not exceed 15 percent of the required amount.

4. Final slopes greater than 3:1 will not be permitted without special treatment such as terracing, retaining walls, erosion control blankets, or special ground covers.
5. All plant materials, except trees planted per the tree replacement schedule, shall meet the following minimum size standards in Table 6-1. Trees planted per the tree replacement schedule shall meet the minimum requirements outlined in LEC 105.12.470(c)(8)d. Table 6-1: Minimum Size Standards for Landscape Materials

<i>Plant Type</i>	<i>Minimum Size at Planting **</i>
Trees:	
Evergreen	6 feet in height
Deciduous--shade	2.5 inches caliper, measured six inches from base
Deciduous--ornamental	2 inches caliper, measured six inches from base
Shrubs:	
Evergreen	# five container*
Deciduous	# five container*
Shrubs used for screening (evergreen or deciduous)	# five container*
* Approximately five gallons.	
** See American Standards for Nursery Stock, ANSI 260.1-2004 for exact specifications.	
* This table and its requirements do not apply to the tree replacement schedule.	

6. As an alternative to the minimum standards for landscape materials, a landscape plan prepared by a qualified professional certifying that said plan will meet the intent of this section may be submitted.
7. As a general rule, trees should be planted ten feet away from all utilities including water and sewer stubs unless approved by the city's landscape architect. No plantings may be placed in a drainage and utility easement, unless approved by the Public Works Director.

(e) *Perimeter parking lot landscaping.* Parking areas, and especially vehicle headlights, shall be screened from public streets and sidewalks, public open space, and adjacent residential properties. Where applicable an applicant may demonstrate that distance and/or finished grades would achieve this objective, whereupon this requirement may be waived by the ~~Planning Director~~ Community Development Director. The perimeter of parking areas shall be screened as follows:

1. With the exception of VMX area, a landscaped frontage strip at least eight feet wide shall be provided between parking areas and ~~public streets, sidewalks, or paths~~ road right-of-way. If a parking area contains over 100 spaces, the frontage strip shall be increased to twelve feet in width.
  - a. Within the frontage strip, screening shall consist of either a masonry wall, fence, berm, or hedge or combination that forms a screen a minimum of 3 1/2 and a maximum of four feet in height, and not less than 50 percent opaque on a year-round basis.

- b. Trees shall be planted at a minimum of one deciduous tree per 50 linear feet within the frontage strip.
2. Along side and rear property lines abutting residential properties or districts, screening shall be provided, consisting of either a masonry wall, fence or berm in combination with landscape material that forms a screen a minimum of four feet in height, a maximum of six feet in height, and not less than 90 percent opaque on a year-round basis. Landscape material shall include trees, planted at a minimum of one deciduous or coniferous tree per 40 linear feet along the property lines.

Figure A: Example cross-section view of perimeter parking lot landscape screening.

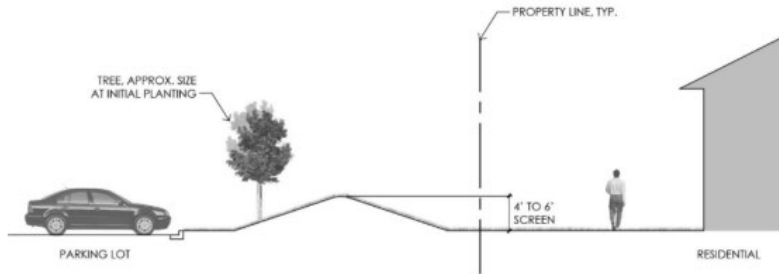
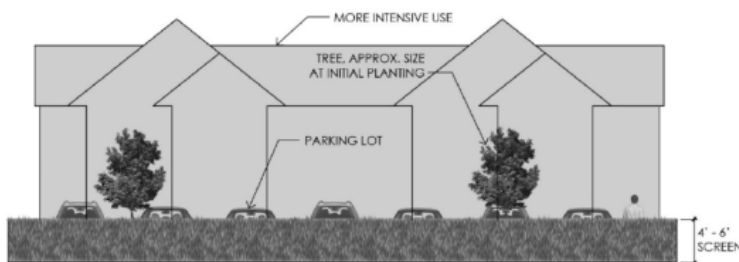


Figure B: Example elevation view of perimeter parking lot landscape screening.



(g) *Maintenance and installation of materials.* Installation and maintenance of all landscape materials shall comply with the following standards:

1. All landscape materials shall be installed to current industry standards. Special attention must be paid to initial soil preparation, drainage, and proper initial planting of plant root mass.
2. Irrigation or other water supply adequate to support the specified plant materials shall be provided at the time of, or immediately after, plant installation.
3. All required landscaping and screening features shall be kept free of refuse and debris.
4. All landscape mulch depth, plantings, seeded, and sodded areas shall be maintained to manage weeds and ensure establishment of intended plant materials.
5. All landscape materials shall be guaranteed for two years. Any landscape material that dies, has a dead or broken central leader, exhibits 30% or more crown death, is damaged by construction, or becomes diseased before the end of the second year after installation acceptance shall be replaced by the developer.
6. For nonresidential projects, continuing maintenance and replacement of landscape materials shall be the responsibility of the property owner, including after two years of initial installation. Improvements identified on the landscape plan, including non-plant materials, such as fencing, shall be maintained for the life of the project for which the plan was required.

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**105.12.260 Permits, Certificates, and Licenses.** The intent of these changes is to articulate the City's existing policy for requiring grading and site improvement agreements.

## Proposed Language:

### (a) *Building permits.*

- (1) *Compliance.* A building permit is required for the construction or structural alteration of a building or any part thereof. Other construction activity may require a permit in accordance with the state building code. Demolition, wrecking or removal of any structure shall require a demolition or moving permit. No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all requirements of the state building code as adopted by the city pursuant to LEC 105.08 have been fully met.
- (2) *Concurrent applications.* If the proposed development requires a zoning amendment, variance or conditional use permit, or other permit required under this article, the applicant shall secure all required permits prior to the issuance of a building permit for said development.
- (3) *Administrative review of permits for existing platted lots.* If the proposed development does not involve a zoning amendment, variance or conditional use permit, and proposes a use, structure or expansion of an existing structure on an existing platted lot, the director of planning may review the application and authorize the building official to approve or to deny the permit.
- (4) *Expiration.* Any building permit issued by the city shall expire and by limitation be null and void if a certificate of occupancy and final completion has not been issued within the following applicable period of time after the date of permit issuance:
  - a) Single-family residential dwellings, including new construction, remodeling or additions: 12 months;
  - b) Multifamily and nonresidential construction: 12 months, unless a longer time is specified by the city council at the time the original permit is issued;
  - c) Extension. The building official may grant an extension prior to the expiration of any building permits in accordance with the state building code. An expired building permit may be reissued once, by the building official, for one-half the original permit fee. Thereafter, if the permitted work is not completed within the applicable time period, a new permit may be issued only upon such conditions as the city council by resolution may prescribe, including financial guarantees to guarantee completion by a specified date;
  - d) Time limitations for exterior work. All exterior work shall be completed as follows:
    1. All disturbed and exposed ground shall be covered with landscaping in accordance with LEC 105.04.080 through LEC 105.04.160.
    2. All exterior construction, including siding, roofing, doors, windows and finish shall be completed and present a finished appearance within six months of the start of construction. Tar paper, unfinished plywood, fiberboard insulation, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be an exterior finish shall not be considered an acceptable exterior finish. Extensions for weather-sensitive work may be granted by the building official.
    3. Failure to complete exterior work as required herein shall result in suspension of the existing permit until a reinstatement fee equal to 100 percent of the original building permit has been made. Reinstatement of a building permit does not extend the original term of the permit. The reinstatement fee shall also be paid prior to re-issuance of any subsequent permit for exterior work that was not completed under a prior permit that expired.

### (b) *Certificate of zoning compliance.* A certificate of zoning compliance is a zoning permit that is intended as a means of administratively reviewing a new use, change in use, or structural change that does not require a building permit.

- (1) *When required.* A certificate of zoning compliance or other city issued permit is required for the following activities:
  - a) A new use classification within an existing building or structure;
  - b) A change of use classification within an existing building or structure;
  - c) Addition, removal or change in parking or other on-site improvements including patios;
  - d) Small accessory structures that do not require a building permit;
  - e) Swimming pools;
  - f) Tennis courts, sport courts, or other similar improvement;
  - g) Antennas, including amateur radio antennas and wireless communications facilities that meet the criteria for administrative review in LEC 105.04.240(c);
  - h) Fences six feet and less in height;
  - i) Driveways that are not authorized as part of an approved building permit;
  - j) Stormwater management activities and structures not otherwise permitted as part of a development application;
  - k) Other situations or improvements requiring additional review or interpretation, as specified elsewhere in this article.



- (2) *Expiration of a certificate of zoning compliance.* Where a certificate of zoning compliance use has been established and is discontinued for any reason for a period of one year or longer, the certificate of zoning compliance shall become null and void.
- (c) *Certificate of occupancy.* No vacant land shall be occupied or used and no buildings hereafter erected, altered or moved shall be occupied until a certificate of occupancy has been issued by the building official. Such certificates shall show that the building or premises or part thereof and the use thereof are in conformity with the state building code and the provisions of this chapter. Such certificate shall be issued only when the building or premises and the use thereof conform to all the requirements of the city Code.
- (d) *Sign permit.* A sign permit shall be authorized for a sign that conforms to the sign regulations in LEC 105.12.430. An application, on a form provided by the director of planning, shall be submitted with the required fee by the owner of the proposed sign. The director of planning shall issue a sign permit if all of the regulations in LEC 105.12.430 are met.
- (e) *Special event permit.* A special event permit may be issued for certain events for activities or events not otherwise permitted under the zoning ordinance in accordance with LEC 11.04.070.
- (f) *Grading permit.*
- (1) *Required.* A permit shall be required for all non-agricultural projects or activities that will result in the movement of more than 50 cubic yards of earth or the disturbance of more than one-half acre of land, and for construction of a building or structure on steep slopes, as specified in LEC 105.12.1230(c)(7)e. The director of planning may issue a grading permit only if the grading plan meets the requirements of the city stormwater management and erosion and sediment control ordinance.
  - (2) *Public hearing.* All grading and excavating applications, for the purpose of creating wetlands, berming, landscape amenities, and other natural features that result in the moving of more than 400 cubic yards of material per acre of site area shall require a public hearing.
  - (3) *Grading Agreement.* A Grading Agreement, prepared by the City Attorney, shall be executed for all non-single family or two-family projects requiring a grading permit. Grading Agreement provisions may be included with a Development Agreement associated with a plat or subdivision or included with a Site Improvement Agreement, in which case, a separate Grading Agreement shall not be required. At its discretion, the City may require a grading agreement for any grading work requiring a grading permit.
- (g) *Site Improvement Agreement.* At its discretion, City may require A site improvement agreement, prepared by the City Attorney, is required for any project which requires a building permit and contains public improvements for the purpose of ensuring that public improvements and other site work is completed as required by the City. The site improvement agreement must be executed prior to issuance of a building permit.
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#### **PUBLIC HEARING:**

A public hearing was published in the City’s official newspaper on January 31<sup>st</sup> 2024. No public comment has been received.

#### **FISCAL IMPACT:**

None.

#### **OPTIONS:**

- Recommend approval of the proposed amendments.
- Recommend changes to the proposed amendments.
- Recommend denial of the proposed amendments.

#### **RECCOMENDATION:**

Staff recommends the Planning Commission recommend approval of the proposed text amendment as presented by Staff’

***“Motion to recommend approval of the proposed text amendments as presented by Staff”***

#### **ATTACHMENTS:**

- None