

Section 520 - Zoning: general provisions

520.01. Application. Subdivision 1. Minimum standards. The provisions of this code are the minimum requirements for the promotion of the public health, safety, morals, and welfare. Where the conditions imposed by any provision of this code are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation, the regulations which are more restrictive or which impose higher standards or requirements prevail.

Subd. 2. General rule. 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 code.

Subd. 3. Annexation. When land is proposed to be annexed to the city, the commission shall hold a public hearing to determine zoning of the land. The result of the hearing, along with a recommendation, shall be presented to the city council. In the event of annexation proceedings becoming final before the permanent zoning is determined, the annexed area shall be placed in the R-1-D district and such classification is an interim category pending permanent classification.

Subd. 4. Flood plain. The development of all land which is within the designated flood plain of Minnehaha Creek or Nine Mile Creek shall conform to the terms of this code and the requirements of the appropriate Watershed District. (Amended Ord. No. 87-601)

520.03. Non-conforming uses and structures. Subdivision 1. Grandfather. Any obstruction or structure or use lawfully existing upon August 11, 1966, which would not be permitted under the same standards may be continued as a non-conforming use at the size and in the manner of operation existing upon August 11, 1966, except as herein specified.

Subd. 2. Repair; restoration. Nothing in this subsection prevents modernizing or repairing of a structure when said structure is declared unsafe by the building inspector, providing the necessary repair shall not constitute more than 50 percent of fair market value of such structure after such repair.

Subd. 3. Change in use. When lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it may not thereafter be changed to any non-conforming use. A lawful non-conforming use in or on any location may be changed to a different non-conforming use provided such new use is permitted in the zoning classification applicable to such location or such new use is more restrictive and if a more restrictive use is selected, the location shall not return to the previous less restrictive use.

Subd. 4. Damage or destruction. In the case of a nonconforming use destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly-created impact on adjacent property. (Amended Ord. 06-977)

Subd. 5. Discontinuance. When a lawful non-conforming use of a structure or land is discontinued for a period of one year, any future use of the structure or land shall be in conformity with the provisions of this code. (Amended Ord. 03-898)

Subd. 6. Special grandfather. A non-conforming presently existing use in or on any premise which use was in being on or before January 1, 1972, except a use which is non-conforming only because of failure to secure a conditional use permit is unlawful and hereby prohibited and shall cease forthwith subject only to the granting of a conditional use permit. A non-conforming use as above described which has arisen after January 1, 1972, shall cease to exist and become prohibited one year from and after the notification thereof upon the owner or occupant of such premises, such notice to be by certified mail to the last known address of such owner or occupant. The non-conforming use may be extended by resolution of the council provided the expenditure necessary for conformance to this code is at least \$10,000.

Subd. 7. Maintenance. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

Subd. 8. Expansion. Non-conforming uses may not be expanded beyond the building in which the use is located.

Subd. 9. Additions. A non-conforming use shall not be extended but an addition to a permitted use shall not be deemed the extension of a non-conforming use, if the addition meets all other provisions of this ordinance. (Added Ord. No. 86-566)

Subd. 10. Improvements. An existing non-conforming structure in which a permitted use is conducted on a lot of sub-standard size may be improved if such improvement meets all other provisions of this ordinance. (Added Ord. No. 86-566)

Subd. 11. Continuation of Use. Part of an existing use may continue if the operation as a whole changes to another permitted use. (Added Ord. 95-777 [1-3-96])

Subd. 12. Governmental agency action. If a government action renders a building, sign, parking lot, or fence nonconforming, the property owner of the parcel of land can petition the City Council to provide relief for the action. (Added Ord. 2000-841 [7-18-00])

520.04. Non-conforming Adult-oriented Businesses. Subd. 1. Notwithstanding any other provision in this code or the City code to the contrary, an adult-oriented business that was lawfully in existence as of June 13, 1995, may be continued as a lawful non-conforming use until June 13, 1996, provided, however, that no such non-conforming adult-oriented business may be enlarged or increased, nor may it be extended to occupy a greater area of land than that which was occupied as of June 13, 1995. No such nonconforming adult-oriented business may be moved to any other part of the parcel of land upon which it was conducted as of June 13, 1995.

Subd. 2. Variance. The owner or operator of any non-conforming adult-oriented business may request a variance from Subdivision 1 of this subsection provided, however, that any such request must be made by written application submitted no later than March 13, 1996. No such variance may be granted unless the applicant demonstrates that the time period set forth in Subdivision 1 would cause an undue hardship because of circumstances unique to the individual property under consideration and that the

granting of a variance is necessary to alleviate the hardship and in keeping with the intent of this code. The applicant shall have the burden of proof to demonstrate that an undue hardship exists. Any request for a variance must be submitted to the zoning administrator and shall be referred by the zoning administrator directly to the City Council. In making its decision on whether to grant a variance, the City Council may consider any relevant factor, including, but not limited to:

- a. The length of time that the adult-oriented business has been operating.
- b. The ease by which the property could be converted to a conforming use.
- c. The value and the condition of the improvements on the property.
- d. The amount of the applicant's investment in the business.
- e. The amount of the investment already realized.
- f. The cost of relocating the adult-oriented business. (Added Ord. 95-762)

520.05. Lot provisions. Subdivision 1. Grandfather. A lot of record located in the R-2, R-3, R-4, R-5 or R-6 districts which does not meet the minimum requirements set forth in this code as to area and lot width for the district in which it is located, may be used for a single family detached dwelling provided that the width of such lot is not less than 40 feet, said lot is at least 5,000 square feet in area and otherwise meets the requirements of this code. A lot of record located in the R-1-B, R-1-C or R-1-D districts, which does not meet the minimum area or lot width requirements of this code, may be used for a single family detached dwelling provided the area and width of said lot are not less than two-thirds of the minimums required for such use in the district in which such lot is located and the lot otherwise meets the requirements of this code. A lot of record located in the R-1-E districts which does not meet the minimum area requirements of this code may be used for a single family detached dwelling provided the area of said lot is not less than one-half of the minimum requirements for such use in the R-1-E districts and the lot otherwise meets the requirements of this code. A lot of record located in the R-1-A districts which does not meet the minimum area or lot width requirements of this code may be used for a single family detached dwelling provided the width of such lot is not less than 40 feet, the area of such lot is not less than 2/3 of the minimum area required in the R-1-A districts and the lot otherwise meets the requirements of this code. In addition, a lot of record located in the R-1-A districts which does not meet the minimum area or lot width requirements of this code and has no building located on it as of March 25, 2004, may be used for a single family detached dwelling provided: a) such lot is not less than 35 feet in width, b) the area of such lot is not less than 2/3 of the minimum area required in the R-1-A districts, c) the lot otherwise meets the requirements of the code, and d) construction of a single family detached dwelling on such lot will not cause any contiguous lot or any structure located thereon to fail to meet the requirements of this code. (Amended Ord. No. 87-572) (Amended Ord.04-916)

Subd. 2. Front lines. On a through lot, both street lines shall be front lot lines.

Subd. 4. Front yards. A front yard may not contain any building or other structure except fencing, ornamental outdoor furniture, permitted signs and landscaping.

Subd. 5. Frontage. Except in planned unit developments, lots shall have frontage on a public right-of-way.

Subd. 6. Special case. A platted lot located in Steven's Oakwood Park, Hennepin County, Minnesota, may be subdivided into not more than four single family dwelling parcels provided each contains at least 54 feet of frontage on a public road and is at least 50 feet in width and has an area of at least 7,100 square feet.

520.07. Accessory buildings and structures. Subdivision 1. Prior construction. No accessory building or structure other than a fence, temporary construction office or garage for residential use shall be constructed on a lot in a R district prior to the construction of the principal building. The residential garage may be used for storage and or service when directly related and prior to the construction of the principal building to be located on said lot.

Subd. 2. Height. An accessory building to a residential structure may not exceed 15 feet in height. Accessory buildings in business and industrial districts may not exceed the height of the principal building. (Amended Ord. No. 87-601 & Ord. 99-823)

Subd. 3. Area. Accessory buildings to a residential structure may not exceed an aggregate area of 528 sq. ft. per dwelling unit in the R-2, R-3, R-4, R-5, and the R-6 districts. The following percentage of lot area is used for accessory districts. The following percentage of lot area is used for accessory buildings in the R-1 districts designated provided the area does not exceed 1000 sq. ft. R-1A - 12%; R-1B - 10%; R-1C - 8%; R-1D - 6%; R-1-E - 6%. (Amended Ord. No. 87-601) The total number of accessory buildings allowed to a residential structure is two. (Added Ord. 2002-873)

Subd. 4. Side. Except as otherwise provided in this code, no detached accessory building in any district shall be located closer than three (3) feet from any side or rear lot line, except that the vehicle entrance side to such building shall be not less than 20 feet from any such yard line. A detached accessory building in any district which abuts any lot in an R district shall provide yard requirement as required in the R district unless said accessory building is over 24 feet in length, in which case the required side or rear yard shall be increased 12 inches for each ten feet of length beyond 24 feet to a maximum yard of ten feet. (Amended Ord. No. 87-601)

Subd. 5. Wall on lot line. Detached accessory buildings in the B or I district may with written consent of the owner of the abutting side lot in the B or I district, have a masonry wall located on the lot line provided a 12 foot wide open space remains as the side yard along the other side lot line to provide access from a public right-of-way (alley or street).

Subd. 6. Conformance. Detached accessory buildings when located 60 feet or less from the front lot line must conform to the yard requirements of the principal building.

520.08. Trailers in business districts. Subdivision 1. No house trailer, truck trailer, or similar mobile structure of any kind shall be used for storage purposes or parked within the business districts of the City, except that such a use may be permitted in connection with a construction project or for a temporary period of time not to exceed 30 days per year. (Amended Ord. 95-777 [1-3-96])

520.09. Required yards and open space. Subdivision 1. Grandfather. No yard or other open space existing on or before August 11, 1966, shall be reduced in area or dimension below the minimum requirement set forth in this code. (Amended Ord. No:87-601)

Subd. 2. Not encroachments. The following are not encroachments on yard and setback requirements:

a) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and other similar projections, provided they do not project more than two feet into a yard.

- b) Yard lights and name plate signs in R-1, R-2 and R-3 residential districts provided such lights are three feet or more from all lot lines and subject to section 430 of the city code. Lights for illuminating parking or loading areas or yards for safety and security purposes may be provided where necessary if that glare is not visible from the public right-of-way or adjacent residential property and not more than three foot candle of light intensity is present at residential property line.
- c) In front yards, balconies that extend a distance of four feet or less, provided they are seven feet or more above the grade at the building line, steps, stoops. (Amended Ord. No. 87-601)
- d) In side yards, terraces, patios, driveways, off-street parking, steps, uncovered porches or stoops which do not extend in elevation above the height of the ground floor level of the principal building and do not extend nearer than two feet from any lot line. No basketball rebound board and hoop shall be installed less than eight feet from the side lot line.
- e) In rear yards, bays not exceeding a depth of two feet nor containing an area of more than 20 square feet; fire escapes with treads not exceeding a width of three feet; balconies, decks, breezeways, detached outdoor picnic shelters and recreational equipment, and off-street parking, except as provided in this code. (Amended Ord. 96-787)

Subd. 3. Play areas. Whenever a park or play area is so located that it abuts on a public or railroad right-of-way, either a landscaped yard area of at least 30 feet shall be maintained between such right-of-way and the nearest developed play space, or a fence in conformity with section 520.13 or a six foot chain link fence shall also be used.

520.11. Traffic visibility. On corner lots in all districts except B-2 and B-3, no structure or planting in excess of 30 inches above the abutting curb line shall be permitted within a triangular area defined as follows: "beginning at the intersection of the projected curb lines of two intersecting streets, thence 30 feet along one curb line, thence diagonally to a point 30 feet from the point of beginning on the other curb line, thence to the point of beginning."

520.13. Fences. Subdivision 1. No person may construct, or cause to be constructed or erected within the City, any fence without first making application for and securing a permit therefor from the zoning administrator. (Amended Ord. 95-777 [1-3-96])

Subd. 2. Location. Boundary line fences shall be located entirely upon the private property of the person constructing or causing the construction of such fence unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties. The zoning administrator may require the owner of the property upon which a fence now exists, or may require any applicant for a fence permit to cause to establish the boundary lines of his property by a survey thereof to be made by any registered land surveyor. (Ord. 97-797 [4-15-97])

Subd. 3. Construction and maintenance. A fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used. The fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a

condition of disrepair or danger, or constitute a nuisance, public or private. Link fences, wherever permitted, shall be constructed in such manner the barbed end is at the bottom of the fence and the knuckle end is at the top thereof.

Subd. 4. Nuisances. Any fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance. The Zoning Administrator may commence proper proceedings for the abatement thereof. (Amended Ord. No. 87-601)

Subd. 5. Barbed wire or electric fence. Barbed wire fences are permitted only in industrial districts as provided by this code. Electric boundary fences are not permitted within the City. (Amended Ord. 13-1064)

Subd. 6. Residential district fences. All fences in Residential districts shall be constructed in such manner that at least 25 percent of the plane between the ground and the top of the fence is open, and in calculating such percentage, distances of 50 feet may be averaged beginning at the permitted point opposite the principal building. All boundary line fences in Residential districts shall be erected or maintained to measure no more than four feet in height except that: (Amended Ord. 613)

a) fences on any corner lot erected within 30 feet of the intersecting curb line are subject to subsection 520.11;

b) fences on side property lines shall not be more than six feet in height for the distance commencing from a point on such side property line located at the rear lot line and proceeding thence along such side property line to a point therein which would be intersected by the rear wall line of the then existing principal building on that lot on either side of such fence, which building line intersecting such fence line is closest to the rear lot line from which such fence commences provided that if such principal building is located more than 50 feet away from such fence line and is owned by someone other than the fence owner or erector, then such six foot side yard fence may be constructed to a point of such side yard which would be intersected by the rear wall of the principal building on the lot thus fenced;

c) fences along any rear property line, which is also the rear property line of an abutting lot shall not exceed six feet in height;

d) fences along a rear property line which line constitutes the side lot line of an abutting lot may not exceed six feet in height for a distance calculated as in clause b) and may not exceed four feet in height thereafter;

e) fences on side street lot lines shall not be more than six feet in height for the distance commencing from a point on such side street lot line located at the rear lot line and proceeding thence along such side lot line to a point thereon which is 40 feet distant from the front lot line, but in no case shall the fence extend forward of the front line of the house;

f) property line fences abutting R districts shall conform to those conditions applying to the R districts.

g) fences enclosing swimming pools must have a minimum height of 4 feet and shall not exceed 6 feet subject to the provisions of 520.13 Subd. 6. (Added Ord. 88-613)

h) the side/s of residentially zoned properties abutting a State or County road may have an opaque fence. (Added Ord. 95-777 [1-3-96])

i) The side of the fence facing the public right-of-way shall not contain the structure and/or support of the fence. (Added Ord. 95-777 [1-3-96])

Subd. 7. Business district fences. Property line fences in a B district shall not exceed six feet in height. The council may grant a conditional use permit for a fence up to eight feet in height provided:

- a) that applicant has an approved open sales lot;
- b) open sales lot classified as a non-conforming use;
- c) has a commercial or industrial operation which requires the storage of equipment outside the building;
- d) the premise or use may be dangerous to the public;
- e) the use is an attractive nuisance and the applicant can show that for security reasons a fence of six feet will not be adequate.

Subd. 8. Industrial district fences. Property line fences in an I district shall not exceed eight feet in height except that:

- a) fences in industrial districts which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire can be fastened commencing at a point at least seven feet above the ground, and
- b) a fence located in the front yard of premises in an industrial district abutting a right-of-way containing 50 feet or more in width shall conform to setback requirements for buildings in said district. Said area consisting of the setback shall be landscaped in accordance with a plan approved by the City. Ornamental fences utilized for landscaping purposes are excluded from the provisions of this ordinance.

Subd. 9. Special purpose fences. Fences for special purposes and fences differing in construction, height or length may be permitted in any district in the city by the issuance of a conditional use permit and by the council upon proof and reasons submitted by the applicant and upon the signing by said bodies that such special purpose is necessary to protect, buffer or improve the premises for which such fence is intended. The special fence permit, if issued, may stipulate and provide for the height, location, construction and type of special fence thereby permitted.

Subd. 10. Institutional district fences. In an Institutional district no boundary line fence shall be erected or maintained more than four feet in height except that:

- a) Fences along any property line that abuts a parking lot may exceed four feet but shall not exceed six feet in height. (Added Ord. No. 2000-833)

520.15. Public utility services. This code applies to all public utility buildings and structures except those wires, pipes and conduit which are an integral part of a system for public transportation or for transmitting power, water, heat, communications, gas or sewage by any public utility, and located on public easements or rights-of-way.

520.17. Land reclamation and mining. Land reclamation and mining is permitted in all zoning districts by conditional use permit. The conditional use permit shall include as a condition thereof an approved finish grade plan which will not adversely affect the adjacent land, an approved program for regulating the type of fill permitted, for control of rodents, fire, vehicular ingress and egress, hours of operation, unstable slopes, material dispersed by wind or hauling of material to or from the site, and general maintenance of the site.

520.19. Structures in public rights-of-way. No structure shall be located in or on any public lands or rights-of-way without a permit therefor issued pursuant to appropriate city ordinances or other regulations.

520.20 Swimming Pools: Permit Required: Subdivision 1. No person, firm, or corporation shall construct, repair, enlarge, alter, change, remodel or otherwise improve a swimming pool within the city without first having been issued a permit therefore from the city. Pools shall be constructed and maintained in accordance with this section and all other applicable city or state regulations. (Added Ord.No.88-613)

Subd. 2. Setbacks and other restrictions: Every permit issued under this chapter shall be subject to the following provisions which shall govern the issuance and continued validity of all permits.

a) no portion of a swimming pool or appurtenances thereto shall be located less than 10 feet from any side or rear property line, nor in front of any building.

b) no filtering unit, pump, heating unit, or other noise making equipment shall be located less than 10 feet from any lot line nor 20 feet from any adjacent or nearby residential structures. Mechanical equipment noise shall not exceed the noise standards as specified in Section 555.01 of this code. Mechanical equipment shall be protected from the weather by suitable materials.

c) outdoor pools shall not be located beneath overhead utility lines. Underground utility lines may not be located under nor within 15 feet of any pool. Utility connections for pool lighting and accessories are permitted if installed in accordance with the electrical code.

d) drainage of swimming pools shall be directed toward the pool and away from adjacent properties.

e) all lighting for outdoor pools shall be directed toward the pool and away from adjacent properties.

f) a non-climbable structure or fence, with no hand or foot holds, at least 4 feet in height shall completely surround outdoor swimming pools. All fence openings shall be equipped with a self locking, self closing gate. The locking device shall be openable by key only. Fence and gates shall not permit an opening greater than 5 inches at the bottom.

g) all swimming pools must be installed in conformance with all other applicable city and state laws.

h) a ground level deck at least 3 feet in width measured from the pool waters edge shall be provided and completely surround the pool. Above ground pools shall be provided with decking of a minimum size 4' x 4' at all pool entry points. All ladders shall be retractable. (Added Ord. 88-613)

Subd. 3. Public Pools. In addition to the requirements of Section 520.20 Subdivision 4. Public swimming pools shall be considered structures as defined in this ordinance. Public swimming pools shall require a conditional use permit and meet the requirements of Section 530.09. (Added Ord. 88-613)

520.21. Districts. Subdivision 1. Established. The city is divided into the following zoning use districts: (Amended Ord. No: 87-601)

R - Residential Districts

- R-1-A Single and two family high density
- R-1-B Single family high density
- R-1-C Single family medium density
- R-1-D Single family low density
- R-1-E Single family low density
- R-2 Low density multiple family residential
- R-3 Medium density multiple family residential
- R-4 Medium high density multiple family residential
- R-4 Planned unit development
- R-5 High density multiple family residential
- R-6 Medium density multiple family residential

B - Business Districts

- B-1 Limited business
- B-2 Central business
- B-3 General business

I - Industrial Districts

- I-1 Industrial
- I-2 General industrial

FP - Flood Plain District

INS - Institutional Districts - (Added Ord. 2000-833)

BP - Business Park (Added Ord. 06-977)

Subd. 2. Symbols: districts. Reference in this code to R districts includes R-1, R-2, R-3, R-4, R-5 and R-6 districts; reference to B districts includes B-1, B-2 and B-3 districts; reference to I districts includes I-1 and I-2 districts. The symbols opposite the names describing each zoning use district may be used in place of the name of the district or type of district in this code.

520.23. Official zoning map. The boundaries of the districts described in this code are delineated on that certain map entitled "Hopkins Official Zoning Map" which map includes therewith or therein drawings of the flood plains areas and other pertinent information as overlays or adjuncts thereof. Three copies of the official zoning map including all of the overlays and materials above mentioned and including all of the notations, references and other information shown thereon are on file for public inspection in the office of the city clerk. The official zoning map as the same may be amended from time to time by ordinance is made a part of this code by reference with the same force and effect as if such map, diagrams, materials and information were fully set forth in this code and published verbatim. (Amended Ord. No. 2000-833)

520.25. Boundaries. District boundary lines as indicated on the zoning map follow lot lines, the center line of streets or alleys, the center lines of streets or alleys projected, the center of water courses or the corporate limit lines, all as they exist upon the effective date of this ordinance. If district boundary lines do not follow any of the above described lines, the district boundary lines are established as drawn on the zoning map, except where a district boundary line divides a lot of record which was in single ownership on August 11, 1966 and places portions of such lot of record in two or more use districts, any portion of such lot within 50 feet on either side of such dividing district boundary line may be used for any use of either use district provided, however, if any portion of such lot shall extend beyond the 50 foot limitation, the district line as shown shall prevail except the FP district line which shall be relative to the profile and shown on the zoning map.

520.27. Uses not described. Uses not specifically included in this code may be established by amendment thereto after petition therefore by any interested person or the commission after public hearing thereon provided such use conforms to the comprehensive municipal plan of the area and to the metropolitan development guide plan.

520.29. Fees. Fees charged under this code are set by chapter X of the city code.