

CHAPTER 11 ZONING DISTRICTS AND DISTRICT PROVISIONS

ORDINANCE 1137 PERFORMANCE STANDARDS

Section 1137.01: PURPOSE..... 1

Section 1137.02: EXTERIOR STORAGE..... 1

Section 1137.03: REFUSE 1

Section 1137.04: TOXIC OR NOXIOUS MATTER..... 1

Section 1137.05: AIR POLLUTION..... 2

Section 1137.06: MISCELLANEOUS NUISANCES..... 2

Section 1137.07: SCREENING..... 2

Section 1137.08: FENCING, RETAINING WALLS AND SOUND BARRIERS..... 2

Section 1137.9: LANDSCAPING..... 9

Section 1137.10: GLARE..... 9

Section 1137.11: BULK STORAGE (LIQUID) 9

Section 1137.12: NUISANCE CHARACTERISTICS..... 9

Section 1137.13: PERMITTED ENCROACHMENTS 9

CHAPTER 11 ZONING DISTRICTS AND DISTRICT PROVISIONS

ORDINANCE 1137 PERFORMANCE STANDARDS

Section 1137.01: PURPOSE. The performance standards established in this section are intended to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions which cause blight or are detrimental to environment. All future development in all districts shall be required to meet these standards. These standards shall also apply to existing development where so stated.

Before any Land Use Permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data requested by the Zoning Administrator to determine conformance including specifically but not exclusively a description of equipment to be used, hours of operation, method of refuse disposal, and type and location of exterior storage.

Section 1137.02: EXTERIOR STORAGE. In residential districts, all materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following in good order: clotheslines and recreational equipment; construction and landscaping materials and equipment currently being used on the premises; agricultural equipment and materials if these are used or intended for use on the premises; off-street parking of passenger automobiles and pick-up trucks; fire wood neatly stacked; and boats and unoccupied trailers less than twenty-five (25) feet in length. Existing uses shall comply with this Section within twelve (12) months following enactment of this Code.

In all districts, the City may require a Conditional Use Permit for any exterior storage if it has reason to believe that such storage could constitute a hazard to the public health and safety; could have a depreciating effect upon nearby property values; could impair scenic views; or could constitute a threat to living amenities.

Section 1137.03: REFUSE. In all districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse. Existing uses shall comply with this provision within six months following enactment of this Ordinance.

Passenger vehicles and trucks in an inoperative state shall not be parked in residential districts for a period exceeding seven (7) days. As used herein, the word "inoperative" shall mean "incapable of movement under its own power or in need of major repairs."

All exterior storage material not included as a permitted use, accessory use or conditional use, or otherwise permitted by provisions of this Ordinance, shall be considered as refuse.

Section 1137.04: TOXIC OR NOXIOUS MATTER. Every use of property shall be operated so as not to discharge across the boundaries of the lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury or damage to property, business, or the environment.

CHAPTER 11 ZONING DISTRICTS AND DISTRICT PROVISIONS

Section 1137.05: AIR POLLUTION. Every use of property shall be operated so as to control the emission of smoke or particulate matter to the degree that it is not detrimental to and shall not endanger the public health, safety, comfort or general welfare of the public. For the purpose of this ordinance, the regulations and standards adopted by the Minnesota Pollution Control Agency shall be employed.

Section 1137.06: MISCELLANEOUS NUISANCES. It shall be unlawful for any person to store or keep any vehicle of a type requiring a license to operate on the public highway but without a current license attached thereto, whether such vehicle be dismantled or not, outside of an enclosed building in residential districts.

In addition to nuisances declared by other provisions of this Code, the following are declared to be nuisances affecting public health or safety:

- a. The effluence from any cesspool, septic tank, drainfield or human sewage disposal system, discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized.
- b. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.
- c. The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, to be exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access by the public.

Section 1137.07: SCREENING. See 1137.09.

Section 1137.08: FENCING, RETAINING WALLS AND SOUND BARRIERS.

- a. Purpose. The purpose of this Section shall be to provide for the regulation of fences in the City, to prevent fences from being erected that would be a hazard to the public or an unreasonable interference with the use and enjoyment of neighboring property, and are compatible with existing uses and other zoning restrictions.

- b. General Fencing Regulations.

Subd. 1 Fence Permit. Fences, Retaining Walls, and Sound Barriers shall not be constructed without a building permit.

Subd. 2 Permit Fees. A fee set forth by City Council Resolution shall be charged for a permit issued under this Section for new Fences, as well as 75% replacement of Fences in the same location.

Subd. 3 Application Requirements. The application shall include the type, location, and method of anchoring the Fence, Retaining Wall, or Sound Barrier. Verification of lot lines shall be required by survey monuments or a survey by any registered land surveyor.

Subd. 4 Height-Residential Districts.

CHAPTER 11 ZONING DISTRICTS AND DISTRICT PROVISIONS

- A. Side and Rear Yard. In all Residential Districts, a fence 2ft to 6ft may be erected on the rear lot line, the side lot lines and return to the nearest front corner of the principal building except as provided below. (written agreement)
1. In the event that a deck or porch is located on the front of the structure, the 6-foot-tall fence section located along side lot line(s) shall terminate at the front corner of the principal building as opposed to the front of the porch/deck addition.
 2. On lakeshore lots, a fence not exceeding 6 feet in height and at least 75% open area for passage of air and light may be erected on the lot lines between the lakeshore and the principal building.
- B. Front & Side Yard. In Residential Districts, a fence not exceeding 4 feet in height and having at least 75% open area for passage of air and light, may be erected on the front lot line and the side lot lines forward of a line drawn across the front line of the principal building.

Subd. 5 Height-Non-Residential Districts. Fences shall not exceed 8 feet in height in non-residential districts unless a conditional use permit is obtained.

Subd. 6 Non-Residential Districts-Open Storage Prohibited. In Non-Residential Districts, all materials, supplies, merchandise, or other similar materials not on display for direct sale, rental or lease to the ultimate consumer or user thereof shall be stored within a completely enclosed main building, authorized Accessory Building, or within the confines of an opaque wall or fence not less than 6 feet high. The storage of such materials in box cars, vans, trucks, trailers or other similar enclosures is prohibited. Such materials shall be stored in a manner which prevents them from being deposited on adjacent properties in any manner whatsoever.

Subd. 7 Prohibited Locations.

- A. Fences shall not be permitted within any right of way, clear view triangle area, within the site visibility area adjacent to railroads, or below the 100-year floodplain of any lake, river, or wetland.
- B. Fences shall not be permitted within 15 feet of the curb, and/or surface of any street, road, or alley that is regularly snowplowed by the City, except that fences may be built up to the sidewalk or sidewalk pad provided that the Fence does not encroach on the visibility area as provided in Section A above.

Subd. 8 Type. Fences shall be residential in nature, such as chain link, wrought iron, vinyl, board or picket.

Subd. 9 Wire Fences and Electric Fences. Wire fences and electric fences shall be prohibited in all Zoning districts except as follows:

- A. Barbed wire fences shall be permitted for essential service structures,

CHAPTER 11 ZONING DISTRICTS AND DISTRICT PROVISIONS

provided a conditional use permit is obtained.

- B. Business and Industrial Fences with barbed wire security arms a minimum of 6 feet in height (as measured without the security arm) may be allowed by conditional use permit. The security arm shall be angled in such a manner that it extends only over property of the permit holder and does not endanger the public. Increased landscaping to screen the fence as much as possible will be considered one of the conditions appropriate for the permit.
- C. Wire fences (including barbed wire) and electric fences may be permitted within the AG District when related to farming and hobby farms provided that they are not used as boundary line fences.

Subd. 10 Snow Fences. Corn cribbing (snow) fences are only allowed as follows:

- A. May be used for snow barriers from October 1-May 1.
- B. For the marking of areas for tree preservation as part of an approved plan, during the months of April through October.

Subd. 11 Construction. Every fence shall be constructed in a workmanlike manner and of substantial material suited for its intended purpose. The materials and design shall also be compatible with other structures in the area in which the fence is located and shall not cause blight.

Subd. 12 Posts. All posts and supporting structures of a fence shall face inward towards the property on which the fence is constructed. All posts and supporting structures shall be located entirely upon the fence owner's property.

Subd. 13 Exposed Side. The most aesthetic or appealing side of the fence must face the adjacent properties in all districts.

Subd. 14 Maintenance. If the fence is located along a boundary between 2 properties, both sides shall be maintained in a condition of good repair and shall not be allowed to become or remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the City health and welfare is a public nuisance, and the City may commence proper proceedings for the abatement thereof.

Subd. 15 Drainage. No fence shall obstruct natural drainage. No fence shall be placed within an easement that obstructs or impedes the free flow of surface water from, or in any drainage easements. If a fence is constructed within the easement and it is required to be removed, the City shall not be required to pay compensation for any such Fence.

Subd. 16 Easements. The placement of fences upon utility easements is strongly discouraged and such items are subject to removal if required for maintenance or improvement of the utility. In such cases, costs for removal and restoration shall be the responsibility of the property owner.

CHAPTER 11 ZONING DISTRICTS AND DISTRICT PROVISIONS

Subd. 17 Athletic Facilities. Fences up to 16 feet in height may be permitted to enclose public tennis courts or as back stops for public athletic fields provided that all other requirements of this Section are met and that the backstop is set back a minimum of 200 feet from residential structures. A conditional use permit shall be required for fences taller than 16 feet for private tennis court.

- c. Non-Conforming Fences. It is the intent of this Section to allow the continuation of such non-conforming fences until they are discontinued as provided herein. However, it is not the intent of this Section to encourage the survival of nonconforming Fences and such Fences that are declared to be incompatible with permitted Fences within the City. Such Fences shall be regulated by the following provisions:

Subd. 1 An existing Fence not allowed by this Section in the district within it is located, except when required by law or ordinance, shall not be enlarged, extended, reconstructed, or structurally altered unless such Fence is changed to comply with the requirements of this Section. Maintenance of a non-conforming fence will be allowed when this includes necessary repair and incidental alterations which do not expand or intensify the non-conforming Fence.

- d. Retaining Walls. Retaining walls should be constructed when required by the City to prevent damage to any public area such as a sidewalk or street. Other retaining walls may be constructed under the same restrictions as placed on Fences.

A. Retaining Wall shall be installed with strict adherence to all manufacturers recommended standards.

B. No treated wood (railroad tie) retaining walls shall be allowed within the City limits.

C. Plans for retaining walls shall be reviewed by the Building Official and/or City Engineer if over 4 feet tall.

- e. Sound Barriers. Sound Barriers shall only be constructed when authorized by the City.

- f. Screening.

A. Purpose. The purpose of this Section is to establish standards for the installation of screening to protect the general health, safety, and welfare of the City.

B. When Screening Required:

Subd. 1 Non-Residential Uses Abutting Residential Uses. Where any business, industrial, institutional, essential service, utility or public use (i.e. structure, parking or storage) abuts property zoned or developed for residential use, said building/facility shall provide screening along the boundary of the residential property. Screening shall also be provided where a facility is across the street from a residential zone, but not on that side of a business, industry, or institutional building considered to be the front (as determined by the Zoning Administrator).

CHAPTER 11 ZONING DISTRICTS AND DISTRICT PROVISIONS

Subd. 2 High Density Residential Uses Abutting Single Family Residential Uses.

Where high density residential use abuts property zoned or developed as single family residential use, the high density residential use shall provide screening along all off-street parking and formal outdoor recreational activity areas and between high density and single-family units to mitigate possible adverse impacts.

Subd. 3 Mechanical Equipment. All rooftop and ground mounted mechanical equipment of High Density Residential buildings and of Non-residential buildings and/or equipment shall comply with the following standards:

- i. All rooftop and ground mounted mechanical equipment shall be screened so as to mitigate noise and view of said equipment.
- ii. All rooftop and ground mounted mechanical equipment shall be designed (including exterior color) and located so as to be aesthetically harmonious and compatible with the building.
 - (1) Rooftop, mechanical equipment shall not exceed the building height requirements as set forth in the applicable zoning districts by more than 10 feet.
 - (2) All rooftop and ground mounted equipment shall be painted or color clad to match the building or screened from view with secured fencing or parapets in a harmonious color.
 - (3) Screening of and landscaping around the equipment may be required where the design, color, and location of the equipment are found to not effectively buffer noise or provide aesthetic harmony and compatibility. Screening shall be constructed of durable materials which are aesthetically compatible with the structure and which may be an integral part of the structure. Applicable requirements for access to the equipment shall be observed in the design and construction of the screening.

Subd. 4 Non-Residential Districts-Open Storage. In all High Density Residential Districts and Non-Residential Districts, all materials, supplies, merchandise, or other similar materials not on display for direct sale, rental or lease to the ultimate consumer or user thereof shall be stored within a completely enclosed main building, authorized Accessory Building, or within the confines of an opaque wall or fence not less than 6 feet high. The storage of such materials in box cars, vans, trucks, trailers, or other similar enclosures is prohibited. Such materials shall be stored in a manner which prevents them from being deposited on adjacent properties in any manner whatever.

Subd. 5 Loading and Service Utility Areas. All loading and service utility areas shall be completely screened from all public roads and adjacent

CHAPTER 11 ZONING DISTRICTS AND DISTRICT PROVISIONS

properties and shall be designed to be compatible with the architectural treatment of the principal building.

- C. Type of Screening Required. The screening specifically required by this Section shall consist of a greenbelt strip, buffer yard, or other screening as outlined below:

Subd. 1 A greenbelt strip or buffer yard shall adhere to the following:

- i. The greenbelt strip or buffer yard shall consist of the evergreen trees and/or deciduous trees and plants
- ii. The greenbelt strip or buffer yard shall be a minimum of 10 feet in width and of a sufficient density to provide a visual screen and reasonable buffer.
- iii. The planting strip shall be designed to provide visual screening to achieve a 75% opacity year around and to a minimum height of 6 feet. The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection, unless otherwise established by the Zoning Administration.
- iv. All greenbelt strips and buffer yards must be seeded or sodded or treated with a decorative mulch except in areas of steep slopes where natural vegetation is acceptable, and shall be planted with trees and shrubs as approved by the Zoning Administrator.
- v. Plant materials shall not be located closer than 3 feet from a fence line or property line, and shall not conflict with public plantings, sidewalks, trails, easements, etc.
- vi. Deciduous trees intended for screening shall be planted not more than 40 feet apart. Evergreen trees intended for screening shall be planted not more than 15 feet apart.
- vii. All walls and fences erected within the greenbelt planting strip or buffer yard must be formally approved as part of the subdivision and site plan process.
- viii. The planting plan and type of plantings shall require the approval of the Zoning Administrator.
- ix. Earth berms may be used provided that they are not used to achieve more than 3 feet of the required screen and provided that they adhere to the following:
 - (1) Earth berms shall not exceed a 2 to 1 slope, unless approved by the City Engineer.
 - (2) Earth Berms shall contain at least 4 inches of topsoil.

CHAPTER 11 ZONING DISTRICTS AND DISTRICT PROVISIONS

- (3) Earth Berms are planted with landscape screening material.

Subd. 2 A fence may be installed in lieu of the greenbelt materials. A fence shall be constructed of masonry, brick, steel, vinyl, or wood. Such fence shall provide a solid screening effect and shall be a minimum of 6 feet in height. The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection, unless otherwise established by the Zoning Administrator. The design and materials used in constructing a required screen shall be subject to the approval of the Zoning Administrator.

- D. Screening. Screening shall be required in residential zones where (a) any off-street parking area contains more than 8 parking spaces and is within 30 feet of an adjoining residential zone, and (b) where the driveway to a parking area of more than 10 parking spaces is within fifteen (15) feet of an adjoining residential use or zone. Where any business (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is located across the street from a residential zone, but not on that side of a business or industry considered to be the front. The screening required in this section may consist of a fence, trees, shrubs, and berms, but shall not extend within fifteen (15) feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, twenty (20) feet from the street right of way with landscaping between the screening and pavement. Planting of a type approved by the City Council may also be required in addition to or in lieu of fencing.
- E. Fencing. For purposes of this ordinance, a fence is defined as any partition, structure, wall or gate erected within the required yard. All boundary line fences shall be entirely located upon the property of the person, firm or corporation 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 wishing to construct a fence to establish the boundary lines of this property by a survey thereof to be made by any Registered Land Surveyor.
- F. Bulk Storage (liquid). All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall require a conditional use permit in order that the City Council may have assurance that fire, explosions, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety, and general welfare). All existing above ground liquid storage tanks having a capacity in excess of ten thousand (10,000) gallons shall secure a conditional Use Permit within twenty-four (24) months following enactment of this Ordinance. The City Council may require the development of diking around said tanks. Diking shall be suitable and shall hold a leakage capacity equal to one hundred fifteen (115) percent of the tank capacity.

CHAPTER 11 ZONING DISTRICTS AND DISTRICT PROVISIONS

Section 1137.9: LANDSCAPING. In all districts where setbacks exist or are required, all developed uses shall provide a landscaped yard including grass, decorative stones and/or shrubs and trees, along all streets. This yard shall be kept clear of all structures, storage, and off-street parking. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot. Such yard shall have a depth of at least ten (10) feet. In all districts, all structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

Section 1137.10: GLARE. In all districts, all artificial lighting used to illuminate any off-street parking area, sign, or other structure shall be arranged so as to deflect light away from any adjoining residential zone and away from the public streets. Direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in a manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cause light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 candles (meter reading) as measured from said property.

Section 1137.11: BULK STORAGE (LIQUID). See 1135.09.

Section 1137.12: NUISANCE CHARACTERISTICS. No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities.

Section 1137.13: PERMITTED ENCROACHMENTS. The following shall be considered as permitted encroachments on setback and height requirements, except as provided in this ordinance:

In any yard: Posts, off-street open parking spaces, flues, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, open fire escapes, sidewalks and fences, and all other similar devices incidental and appurtenant to the principal structure except as hereinafter amended.

Decks are also exempted from the rear yard setback requirements except that a deck may not be located closer than ten (10) feet from property line.