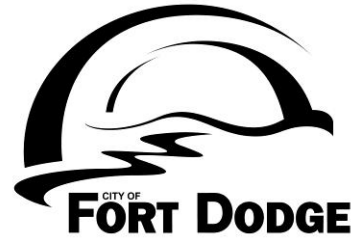


April 21, 2014

To: Mayor Bemrich and City Council

From: David Fierke, City Manager

Subject: Minor Text Amendments



ACTION: Hold Third Reading of Ordinance

Brief History

The Fort Dodge Zoning Ordinance was adopted in 1978. From time to time, provisions of the Zoning Ordinance may need to be updated or amended through additions, revisions and deletions; to better serve the need of the City and its citizens. These amendments ensure that the intent of the Ordinance is met, provisions are not outdated and there is a tool available to ensure rational and supported decision making by City Staff and the City's Boards and Commissions.

The City has seen multiple amendments occur within the Ordinance due to changes in community's needs, development/uses, technology and other driving factors; and is currently seeing a need for some minor text amendments, which are each analyzed below.

Analysis of Issue

1. Administration Updates

Section 17.09.02 – AMENDMENTS

The Administration Section of the City's Zoning Ordinance is used by City Staff to monitor and recollect the zoning changes that have been made to the Ordinance. A more detailed summary of changes has been added to the 'Section' column, so there is a reference to those changes. This helps to monitor how the changes have been working and provides a reference for new staff.

The proposed amendment to this section is to add Ordinance 2113 for November 9, 2009; which was an amendment to the Signs section and to fix Ordinance 2113 to say Ordinance 2114.

2. Downtown Equipment Projection

SECTION 17.07.11.F.1.c.

The Downtown Equipment Projection Section is intended to ensure aesthetic appeal of the Downtown. The Ordinance requires that mechanical systems in the Downtown District that are located at grade are not permitted within the front of a building or elsewhere without screening, except an alley. Mechanical systems in this section are referring to items such as permanently fixed air conditioners, grease traps, generators, etc. It does not apply to facilities owned, under the control of or primarily serviced by public or private utilities, including provisions for metering and supply. Under the existing Ordinance, mechanical systems are being located near grade at the front of buildings, and without screening.

The proposed amendment to this section is to require that permanently installed mechanical systems that are located at grade and up to a vertical height of (15) fifteen feet:

- a) Shall not be located between a structure and a street right-of-way or on any building frontage.**
- b) Must be screened with landscaping or opaque architectural materials that are harmonious with the building; unless situated on an alley side.**

3. Definition of a Lodging House

SECTION 17.03.01 - DEFINITIONS

A lodging house is defined as a building containing lodging rooms. A lodging house is a place where lodging and/or meals are provided for compensation, and includes boarding houses, dormitories, or a fraternity or sorority. Lodging houses are only permitted in the Residential Multi-Family, Residential Redevelopment, or Office Commercial Districts through a Special Exception from the Board of Adjustment. The definition of a lodging house has been challenged, where it was stated that "because lodging is provided without compensation, such establishment would not be considered a lodging house". The Special Exception process is put in place to protect the public interest; therefore, all lodging houses must be reviewed under this process to ensure adequate access, parking, low neighborhood impact, etc.

To eliminate any ambiguity within the Ordinance it is recommended that "for compensation" be removed from the definition of Lodging House.

4. Site Plan Screening

SECTIONS 17.08.03.11.a., 17.08.01.F., & 17.07.09.H.4.

The existing Site Plan and Supplemental Ordinances are conflicting. The Site Plan Ordinance requires that commercial or industrial uses that are adjacent to a residential use(s) provide screening in the form of a solid fence or landscaping at least 6' in height along the entire extent of the abutting property line adjacent to the residential use, except in any required front yard setback area. According to the City's Supplemental Ordinance a fence greater than 4' in height shall not be permitted between a main building and a street. The Site Plan Ordinance has been established to ensure that the neighboring residential property is protected from the nuisances created by a commercial or industrial use, while the Supplemental Ordinance has been established to ensure visual clearance at the front of properties and along the street.

To ensure the two Ordinances coincide, while protecting the residential property from neighboring industrial or commercial impacts and providing visual clearance; it is recommended to amend the Site Plan Ordinance to require that a 6' screen be located along any abutting commercial or industrial property line adjacent to a residential use. Said screening must be situated as far back or further back from a street than the main building, unless any parking lot, outdoor storage, waste enclosure or other exterior commercial or industrial feature is established in such area; up to the front yard setback.

Further, to ensure that unnecessary screening is not established, the Ordinance allows for modified compliance through a Special Exception from the Board of Adjustment. The following would be required of such request:

- 1. Neighboring property owners must be notified of the request.**
- 2. The intensity of the use should not create any nuisances to adjacent residential properties due to noise, light or other nuisances.**

3. **An alternate landscaping buffer must be provided as a transition.**
4. **Lack of full screening cannot forfeit the intent of the Ordinance.**

Finally, because screening on commercial and industrial properties will be addressed by the Site Plan Ordinance, the screening requirements will be removed from Section 17.07.09.H.4. and Site Plan requirements will be referenced in Section 17.08.01.F.

5. Accessory Uses and Buildings in the Downtown

SECTION 17.07.11 – Downtown District

An Accessory Use is a use that is secondary to a property's main use, meaning it should be subordinate to the main use. Accessory uses are not identified within the Downtown Zoning District, but are in other Districts. Identifying permitted Accessory Uses in the Downtown District will ensure that such uses are permitted. Uses not identified within the Ordinance as accessory or permitted are not allowed within the downtown.

The proposed amendment to this section is to permit the following Accessory Uses in both Districts (D-1 & D-2) of the Downtown:

1. **Private Garages.**
2. **Parking Lots.**
3. **Home occupation.**
4. **Vegetable and flower gardens.**
5. **Raising and keeping of dogs, cats and ferrets; but not on a commercial basis.**

In addition to Accessory Uses, those uses permitted outdoors only identify restaurants within the City's Zoning Ordinance. **To ensure that all potential exterior uses within the Downtown are accounted for, it is proposed to add Outdoor Recreation Facility as a use that requires a Special Exception from the Board of Adjustment. This is to ensure guidelines on noise, hours, etc. are established, as seen fit by the Board, and that the character of the neighborhood is protected.**

Outdoor Recreation Facility will be defined within Section 17.03.01 of the Ordinance as a privately or publicly owned or operated use providing permanent or recurring seasonal facilities for recreation activities that are carried on primarily outside of the structure.

6. Undefined Terms

SECTION 17.03.01

Currently there are no resources listed within the City's Zoning Ordinance to establish a meaning of undefined terms. It is recommended that this section include clarification of words not defined within the Ordinance by adding the following:

Any word not herein defined shall be as defined in other codes and Ordinances of the City of Fort Dodge.

Any word not defined herein or in other codes and Ordinances of the City of Fort Dodge shall be as defined in any recognized English Dictionary.

7. Corridor Overlay Landscaping

SECTIONS 17.07.18.F.3.b. & 17.07.20.G.2.

Currently these sections reference L2 and Interior Planting Area Standards, which are terms no longer used within the City's Ordinances, as the Site Plan Ordinance addresses most landscaping matters.

It is recommended these references be removed.

8. Commercial Overlays – Concrete Buffer

SECTION 17.08.03.G.9.g.iv.

The City's Zoning Ordinance requires that all right of ways be landscaped with living groundcover; however, the streetscape improvements along 5th Avenue South incorporated a 12" concrete mow strip along all right-of-way adjacent to 5th Avenue South.

To ensure the mow strip is continued along 5th Avenue South, it is recommended that the Site Plan Ordinance require that a 12" concrete mow strip, detailed per the City's Engineering Department be established along any right-of-way that is adjacent to 5th Avenue South in the O-CC District.

9. Tree & Shrub Calculations

SECTION 17.08.03.G.9.e.ii.

Currently the City's Ordinance does not clearly state which square footage (lot or required green space) shrub and tree calculations are based on.

To ensure the planting calculations are clear, it is recommended that it be stated within the Ordinance that tree and shrub calculations are based on the required amount of general green space in square feet.

10. Tree Preservation

SECTION 17.08.03.G.9.g.iii.

The City's Zoning Ordinance does not clearly state what planting ratio can be used when preserving trees. It states that preserved trees may be part of the required landscaping in a 3:1 ratio. **Adding (new:existing)** clarifies that this means that 3 required new trees can be replaced with 1 existing tree.

Budget Impact

No City expenditures are anticipated.

Strategic Plan Impact

This action is relates to a variety of policies depending on the section being amended:

- C.2.3: Landscape improvements at existing and new commercial developments, particularly as related to breaking up and softening the appearance of expansive parking areas, shall be encouraged.
- C.3.2: A compatible, diverse mixture of retail, office, institutional, residential, dining, services, and public open space shall be encouraged.

- C.3.10: Development and redevelopment of downtown area properties shall support the architectural and historic context so important to the economic success of the area. The intent shall be to create a unique environment and identity not found in other places.

Existing Plan Impact

N/A - clarification

Subcommittee or Commission Review / Recommendation

The Plan and Zoning Commission review this proposal at their April 8th meeting and recommends approval of the minor text amendments to the Zoning Ordinance.

Staff Conclusions / Recommendations

Subject to Council discussion and public comment, Staff recommends approval of the minor text amendments to the Zoning Ordinance.

Alternatives

Delay the first reading, should amendments to the text be desired. Another option is to reject the proposed changes. No changes to the ordinance would then occur.

Implementation and Accountability

If the Council completes three readings of the ordinance, the City's ordinance will be amended to reflect the changes.

Signed



Carissa Miller
Associate Planner

Approved

David R. Fierke
City Manager

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE NO. 1489 OF THE ORDINANCES OF THE CITY OF FORT DODGE, IOWA: THE SAID ORDINANCE NO. 1489 BEING ENTITLED: "AN ORDINANCE REGULATING AND RESTRICTING THE LOCATION, CONSTRUCTION AND USE OF BUILDINGS AND STRUCTURES, AND THE USE OF LAND IN THE CITY OF FORT DODGE, IOWA, AND FOR SAID PURPOSES DIVIDING THE CITY INTO DISTRICTS AND CREATING BOARD OF ADJUSTMENT, REPEALING ORDINANCES IN CONFLICT WITH THIS ORDINANCE, AND PROVIDING FOR PENALTIES FOR VIOLATION OF THE REGULATIONS."

BE IT ORDAINED BY THE CITY COUNCIL OF FORT DODGE, IOWA:

SECTION I

This Ordinance amends said Ordinance No. 1489 by directing the incorporation of language within the zoning regulations.

SECTION II

That Ordinance No. 1489 of the City of Fort Dodge, Iowa, as adopted, enacted and passed on the 17th day of October, 1978, be the same is hereby amended by making the following change upon the District Regulations.

By adding the following statements prior to the alphabetical sequence of definitions in "Section 17.03.01-DEFINITIONS":

Any word not herein defined shall be as defined in other codes and ordinances of the City of Fort Dodge.

Any word not defined herein or in other codes and ordinances of the City of Fort Dodge shall be as defined in any recognized English Dictionary.

By removing "for compensation" from the definition of LODGING HOUSE in "Section 17.03.01-DEFINITIONS", as follows:

LODGING HOUSE: A "lodging house" is a building originally designed for or used as single-family, two-family, or multiple-family dwelling, all or a portion of which contains lodging rooms or rooming units which accommodate persons who are not members of the keeper's family. Lodging or meals, or both, are provided ~~for compensation~~. The term "lodging house" shall be construed to include: boarding house, rooming house, fraternity house, sorority house and dormitories.

By adding the following definition in alphabetical sequence to "Section 17.03.01-DEFINITIONS":

OUTDOOR RECREATION FACILITY: A privately or publicly owned or operated use providing permanent or recurring seasonal facilities for recreation activities that are carried on primarily outside of the structure.

By removing in its entirety Section: 17.07.09.H.4. of the Office Commercial District as follows:

- ~~4. All permitted uses may request modified compliance to the Site Plan Ordinance (Section 17.08.03) screening requirements, through a Special Exception, provided the following are met:~~

- a. ~~The intensity of the use is such that any adjacent residential property is not anticipated to experience noise, light or other nuisances as a result of said property's use.~~
- b. ~~A buffer yard or plantings (trees or bushes) provide an appropriate level of transition from the use of said property to an adjacent residential use.~~
- c. ~~Lack of full screening will not be contrary to the intent of this ordinance.~~

By amending Table 17.07.11-1 of Section 17.07.11 to read as follows:

Uses P = Permitted S = Special Exception	Downtown Sub-Districts	
	D-1 Core	D-2 Corridor
Residential		
Single family detached		
Single family attached (three or more units)		P
Duplex		
Multi-family (all floors)		P
Multi-family (upper floors only)	P	P
Elderly housing (all floors)	S	P
Elderly Housing (upper floors only)	P	P
College or university dormitory (all floors)	S	P
College or university dormitory (upper floors only)	P	P
Commercial		
Offices, financial institutions	P	P
Medical, dental, mental health, physical and occupational therapy offices and clinics	P	P
Mercantile (retail)-goods and/or services (in door only)	P	P
Taverns/bars	P	P
Restaurants, sit down (no drive thru facility)	P	P
Restaurants (with drive thru facility)		S
Sidewalk café	P	P
Sidewalk retail display and sales	P	P
Theater/entertainment establishments	S	S
Undertaking establishments		S
Full-service gas stations		S
Auto parts and tire sales and repair	S	S
Auto body repair	S	S
Hotel/motels	S	S
Wholesale establishments		S
Outdoor Commercial		
Outdoor restaurant	S	S
Outdoor recreation facility	S	S
Other		
College, university, trade schools	P	P
Schools (K thru 12)		P
Pre-schools	S	P
Public parks, plazas and open space	P	P
Churches		S
Child day care (outdoor play area must be fully fenced whether on the same or an adjacent zoning lot)	S	S
Group Homes	S	S
Museums, recreation and cultural centers	P	P
Outdoor storage, including materials and/or equipment (fully screened)		S
Parking lots/ parking garages/structure	S	S
Utility substations		S

Accessory uses and buildings	S P	P
Wireless Communications Structure of Minor Significance in accordance with Section 17.08.02 of this ordinance.	S	S

By adding Section 17.07.11.D to read as follows; and renaming Section 17.07.11.D to Section 17.07.11.E, Section 17.07.11.E. to Section 17.07.11.F., Section 17.07.11.F. to Section 17.07.11.G., Section 17.07.11.G. to Section 17.07.11.H., and Section 17.07.11.H. to Section 17.07.11.I.:

D. ACCESSORY USES: Uses of land or structure customarily incidental and subordinate to a permitted use are permitted in the D-1 and D-2 Districts, as established in Table 17.07.11-1. Such accessory uses include the following:

1. Private Garages.
2. Parking Lots.
3. Home occupation.
4. Vegetable and flower gardens.
5. Raising and keeping of animals, such as dogs, cats, and ferrets, but not on a commercial basis.

By amending Section 17.07.11.F.1.c.i. and 17.07.11.F.1.c.ii. to read as follows:

- c. Mechanical systems
 - i. This section shall not apply to facilities owned, under the control of or primarily serviced by public or private utilities, including provisions for metering and supply.
 - ii. Mechanical systems that are permanently installed and located at grade, up to a vertical height of (15) fifteen feet:
 - a) Shall not be located between a structure and a street right-of-way or on any building frontage.
 - b) Must be screened with landscaping or opaque architectural materials that are harmonious with the building; unless situated on an alley side. ~~and not visible from any other street right-of-way.~~

By removing the following segment from Section 17.07.18.F.3.b.:

~~Any portion of a parking or loading area that is not completely concealed from view of a fronting street must be screened to the L2 standard.~~

By removing in its entirety Section 17.07.20.G.2., as follows:

~~Interior Planting Area (IPA) as required in Section 17.07.11.H.4 may be applied to building foundation, other yard areas and pedestrian walkway areas.~~

By adding the following statement to the end of Section 17.08.01.F.:

, unless otherwise required by screening regulations of Section 17.08.03.

By adding Section 17.08.03.G.9.e.ii., as follows:

- ii. Tree and Shrub calculations shall be based on the required amount of general green space in square feet (i.e. 1 per X square feet of general green space)

By amending Section 17.08.03.G.9.g.iii. to read as follows:

- iii. Tree preservation is encouraged. Preserved trees may be part of the required landscaping in a 3:1 (new:existing) ratio if:

By adding Section 17.08.03.G.9.g.iv.a., as follows:

- a. A 12” concrete mow strip, detailed per the City’s Engineering Department, shall be established along any right-of-way that is adjacent to 5th Avenue South in the O-CC District.

By amending Section 17.08.03.G.11. to read as follows:

- a. All commercial and industrial uses, regardless of their zoning district, shall maintain a full screen not less than six feet (6’) in height along any abutting property line adjacent to a residential use. Said screening shall be situated as far back or further back from a street than the main building, unless any parking lot, outdoor storage, waste enclosure or other commercial or industrial exterior feature is established in such area; up to the front yard setback. Said screening can be provided with any combination of solid fencing or landscaping. These requirements supersede fence requirements established in Section 17.08.01.F.
 - i. A use may request modified compliance to the above screening requirements through a Special Exception, provided the following are met:
 - 1. Neighboring residential property owners are notified of said request.
 - 2. The intensity of the use is such that any adjacent residential property is not anticipated to experience noise, light or other nuisances as a result of said property’s use.
 - 3. A buffer yard or plantings (trees or bushes) provide an appropriate level of transition from the use of said property to an adjacent residential use.
 - 4. Lack of full screening will not be contrary to the intent of this ordinance.
- b. All public or private utility substations, regardless of their zoning district and not to include individual transformer or switch gear units, shall maintain a full screen of not less than six feet (6’) in height around the immediate vicinity of the utilities or the property line. Said screening can be provided with any combination of the following:
 - i. Solid fencing,
 - ii. Chain link fencing with hanging screen attached, not to include slats, and
 - iii. Landscaping.

- c. If landscaping is used, it must achieve a full screen within three (3) years of installation. Information on the approximate height and spread of plantings at the time of planting and within three (3) years must be provided with the site plan submittal. Any fencing utilized for screening or placed along property lines shall be constructed with the posts on the interior side of the fence unless the fence is finished on both sides.
- d. Screening intended to meet Parking, Traffic Circulation and Access Management provisions of this ordinance must meet all requirements identified in that section of this ordinance.

By renaming Ordinance 2113 to Ordinance 2114 and adding Ordinance 2113, in Section 17.09.02., to read as follows:

2113	November 9, 2009	17.08.04 - Signs
21134	December 21, 2009	17.07.17 – O-CG Overlay District
21134	December 21, 2009	17.07.17 – O-CR Overlay District
21134	December 21, 2009	17.07.17 – O-CC Overlay District

SECTION III

That upon enactment of this Ordinance as by law provided that the City cause the change to be made upon the "District Regulations" adopted in Ordinance 1489 and make notation in ink thereon of reference to the passage and approval of this amendatory Ordinance.

SECTION IV

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION V

This Ordinance shall be in full force and effect from and after its publication as provided by law.

The above Ordinance passed and adopted by the City Council of the City of Fort Dodge, Iowa this _____ day of _____ 2014.

First consideration _____ day of _____ 2014.

Ayes: _____

Nays: _____

Other: _____

Second consideration _____ day of _____ 2014.

Ayes: _____

Nays: _____

Other: _____

Third consideration _____ day of _____ 2014.

Ayes: _____

Nays: _____

Other: _____

CITY OF FORT DODGE

BY: _____
Matt Bemrich, Mayor

ATTEST:

Jeff Nemmers, City Clerk