

**Community Planning and Economic Development Planning Division Report
Zoning Code Text Amendment**

Date: April 26, 2010

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: December 18, 2009

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

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Intent of the Ordinance: To revise existing zoning code definitions, establish new definitions, amend provisions referencing revised definitions accordingly, and amend the tables of permitted and conditional uses accordingly.

Appropriate Section(s) of the Zoning Code: Chapter 520 Introductory Provisions; Chapter 546 Residence Districts; Chapter 547 Office Residence Districts; Chapter 548 Commercial Districts; Chapter 549 Downtown Districts; and Chapter 550 Industrial Districts.

Background: The Minneapolis Zoning Code defines many words and phrases used in the ordinance to clarify the intent of specific provisions. Daily use of the code brought to light the need to define additional words and phrases used and to revise others to make them clearer or more consistent with how ordinances are administered and enforced. Most definitions are found in section 520.160. Several of the proposed revisions require updating other sections of the code in Chapters 546 through 550, which are addressed as a part of this amendment.

Purpose for the Amendment:

What is the reason for the amendment?

What problem is the Amendment designed to solve?

What public purpose will be served by the amendment?

What problems might the amendment create?

The purpose of the amendment is to define additional words or phrases used in the zoning code and to revise other definitions to clarify ordinance provisions or make them more consistent with how they are administered and enforced. The zoning administrator is charged with interpreting and administering the provisions of the zoning code. Interpretations of definitions ensure that the intent of provisions throughout the code is applied. The bulk of the proposed amendments are to codify zoning administrator interpretations. The amendment does not include creating new words or phrases not currently found in the code.

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The amendment would serve the public purpose by clarifying vague sections of the zoning code, making the zoning code easier to use. A clearer zoning code would be easier to administer and enforce, as well as more easily used by the public.

The attached table lists the reason for each amendment that is not a simple correction. Most of the revisions are based on how regulations are currently applied.

Staff does not anticipate any problems resulting from the amendment.

Timeliness:

Is the amendment timely?

Is the amendment consistent with practices in surrounding areas?

Are there consequences in denying this amendment?

The amendment is timely because updating definitions to correspond with current interpretations should be done regularly. Staff has compiled interpretations over time, and is now bringing forth the proposed changes to rectify these issues.

While no specific research has been undertaken to see how often other municipalities update definitions in their zoning code, it is certain that they take steps to maintain accuracy with current practices in their zoning code.

The consequences of denying the amendment include continued staff challenges with enforcing the zoning ordinance because current interpretations would not be codified. Staff errors or misunderstanding are more likely when ordinances are not clear. Clarification would not be provided for members of the public. Also, small errors would not be corrected.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The following policies of *The Minneapolis Plan for Sustainable Growth* apply:

Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

Applicable Implementation Step

1.1.1 Ensure that the City's zoning code is consistent with The Minneapolis Plan and provides clear, understandable guidance that can readily be administered.

This amendment aids in the implementation of the Comprehensive Plan by refining and correcting issues in the zoning code which in turn make the zoning code easier to use and enforce. A clearer zoning code makes it easier for both staff and the public to use the zoning code, in turn helping implement the Comprehensive Plan.

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Recommendation of the Community Planning and Economic Development--Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment.

Word or phrase	Proposed amendment	Reason for amendment ¹
Animal shelter	<u>A facility that houses homeless, lost or abandoned animals or provides temporary boarding services for domestic animals.</u>	Temporary boarding, such as a doggy-day care, is also classified as an animal shelter. (Table 550-1)
Automobile repair, minor	...Minor repair may include muffler replacement, oil changing and lubrication, tire repair and replacement except tire recapping, wheel alignment, brake repair, suspension repair, engine repair and replacement, transmission repair and replacement, flushing of radiators, servicing of air conditioners, <u>audio installation, detailing,</u> and other activities of repair or servicing of automobiles, except rebuilding or reconditioning of passenger automobiles, body, frame or fender straightening, replacement or repair, painting or rustproofing. ...	These are additional services classified as minor automobile repairs. (Table 548-1, Table 549-1, Table 550-1)
Bay window	<u>A projection from a building primarily constructed of windows that is one (1) or more feet above the adjacent grade.</u>	A bay window is cantilevered from a building. (Table 535-1)
Canopy tree	<u>A deciduous tree that commonly grows to a mature height of thirty-five (35) feet or greater.</u>	Differentiates between ornamental and canopy trees. The zoning administrator had not previously identified a specific height. (530.160, 549.220, 551.310)
Clinic	An establishment where patients are admitted for medical or dental exams and treatment on an outpatient basis only. <u>A use providing only counseling services shall not be considered a clinic.</u>	Counseling services that do not dispense drugs are classified as offices. (applicable district use tables where clinics and offices are allowed.)

¹ In this column, the most applicable ordinances where a word or phrase is used are listed for reference in parentheses.

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<u>Communication exchange</u>	<u>A building where phone calls are switched to and from major feeder lines, where internet service providers route internet traffic between their networks, or where some other form of electronic communication exchanges occur. Communication exchange shall not include a telecommunication tower, antenna or base site.</u>	Replaces telephone exchange to accommodate advances in communication technology. Other communication exchange uses were determined to be substantially similar to telephone exchanges. (district use tables)
Drive-through facility	...Drive-through facilities shall not include the direct refueling of motor vehicles <u>or a car wash.</u>	Although a car wash has similar features to a drive-through facility, car washes are subject to regulations specific to that type of use.
Drug store	<u>A convenience retail store with a pharmacy.</u>	To be a drug store, a pharmacy must be incorporated into this retail use. (551.1220)
Dwelling: Two-family dwelling	A building containing two (2) dwelling units only, each of which is separated from the other by an unpierced wall extending from ground to roof <u>for at least eighty (80) percent of the length of the structure</u> or an unpierced ceiling and floor extending from exterior wall to exterior wall.	More than one principal residential structure is not allowed on a zoning lot, except as allowed in select districts. Specifying the maximum amount of separation allowed between two units prevents circumvention of this ordinance. (535.190, applicable district use tables)
<u>Early childhood learning center</u>	<u>A facility in which educational programs are provided to parents and children from ages birth to an age eligible to enter kindergarten within the next four (4) months.</u>	Differentiates between an early childhood learning center and a preschool. Although similar, district regulations affect where each may be located. (536.20, applicable district use tables, applicable lot dimension and building bulk requirements tables)

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Floor area, gross	<p>...The gross floor area of a building shall include basement floor area when one-half (-1/2) or more of the basement height is above the established curb level or above the finished lot grade level where the curb level has not been established <u>natural grade for more than fifty (50) percent of the total perimeter</u>. The gross floor area shall also include elevator shafts and stairwells to each floor, penthouses, attic space having headroom <u>clearances that meet building code minimum ceiling heights</u> of seven (7) feet six (6) inches or more, interior balconies and mezzanines, enclosed porches, floor area devoted to accessory uses, and floor space used for mechanical equipment, except equipment located on the roof, <u>unless otherwise specified in this ordinance</u>. ...</p> <p>... <u>In determining the gross floor area of an individual use within a multiple tenant building, the gross floor area is the sum of the gross horizontal areas measured from the interior faces of the interior walls of the space occupied by the use.</u> ...</p>	<p>Clarifies where the threshold is measured for basements and attics, and when mechanical equipment is included. (applicable building bulk requirements tables)</p> <p>A method for measuring interior floor area of individual uses in multi-tenant buildings had not been defined previously, although many uses located in multi-tenant buildings are subject to a maximum gross floor area. For example, neighborhood serving retail sales and services uses located in OR districts are limited to 2,000 sq. ft. of gross floor area and must be located within a mixed use building. (547.30, 547.260, 548.300, 548.360, 549.410, 550.245, 550.305)</p>
Frontage: Primary and Secondary frontage	<p>Primary frontage. F<u>For the purposes of applying the on-premise sign regulations</u>, the frontage toward which the use faces or is oriented. Only one (1) such primary frontage shall be allowed on a zoning lot.</p> <p>Secondary frontage. <u>For the purposes of applying the on-premise sign regulations</u>, a<u>A</u> frontage that is not the primary frontage.</p>	<p>These phrases are only found in Ch. 543 On-Premise Signs at this time. Applying these to ordinances elsewhere in the zoning code has resulted in unintended alternate interpretations.</p>

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<u>Habitable</u>	<u>Suitable for a person to live in. References to habitable spaces, areas, and portions of dwellings shall include kitchens, hallways, bathrooms, closets, and unfinished areas easily converted to livable spaces, such as attics and basements, but does not include an attached accessory use designed or intended to be used for the parking of vehicles. References to habitable buildings shall include all habitable spaces and all attached structures to the habitable space including an attached accessory use designed or intended to be used for the parking of vehicles.</u>	Usage of this word in the zoning code is based off of its common meaning (520.160) and not the meaning used to regulate building codes. This zoning administrator interpretation regarding which spaces are included as habitable has been upheld by the Board of Adjustment on appeal. Habitable can be used in zoning ordinances in two ways. When habitable buildings are referred to, certain uses are required to be located a specified distance from the structure. Habitable spaces, areas, and portions refer to actual living spaces within a dwelling. (535.90, 536.20, 537.110, Ch. 551, Article XV)
Height, structure or building	<u>The vertical distance from the natural grade measured either at the curb level or at a point ten (10) feet away from the front center of the structure or building, whichever is closer, to the top of the highest point of the structure including parapets, or to the top of the highest point of the roof on a flat or shed roof, the deck line on a mansard roof, or the average distance between the eaves edge and the ridge level for gable, hip and gambrel roofs. Dormers exceeding fifty (50) percent of the building width below a gable, hip and gambrel roof shall be included in the measured vertical distance. Except in the SH Shoreland Overlay District, roof-top mechanical equipment and enclosures less than fourteen (14) feet tall on a flat roof shall not be included in the height provided the equipment and enclosures are set back from the exterior walls one (1) foot for every one (1) foot they extend above the roof surface.</u>	Clarifies when parapets, dormers, and mechanical equipment are included. (applicable primary and overlay district building bulk requirements)

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Home occupation	An occupation or profession carried on by a member of the household residing on the premises, conducted as a customary, incidental and accessory use of a dwelling. <u>Also referred to as live-work.</u>	Any occupation located within a dwelling is regulated as a home occupation. (Ch. 535, Article VII)
<u>Hospital</u>	<u>An establishment where patients are admitted for medical, surgical, or psychiatric treatment for outpatient and/or inpatient, overnight accommodation.</u>	For classification purposes, the length of patients’ stay is the main difference between a hospital and a clinic. The complete zoning administrator interpretation is contained in the appeal file BZZ-4746. (applicable district use tables where hospitals and clinics are allowed)
Library, public.	A library operated by the City of Minneapolis <u>Hennepin County.</u>	
Lot: Reverse corner lot and Zoning lot	Reverse corner lot. A corner lot that includes a side more than one <u>lot line adjacent to the streets of which one lot line that</u> is substantially a continuation of the front lot line of the adjacent property to the rear. Zoning lot. A single, <u>buildable</u> parcel of land under common ownership or control, occupied by one (1) or more principal buildings or uses, accessory buildings or uses, and all yards and open spaces, as required by the zoning ordinance. A zoning lot may consist of more than one (1) platted lot, <u>but shall not be separated by a public street.</u>	Removes language that is seemingly contradictory to other zoning ordinances that require two front yards on reverse corner lots. A zoning lot cannot be separated by a public street. A zoning lot must also be “buildable” meaning parcels cannot be subdivided to sizes or shapes that are not buildable, or in the case where a zoning lot is divided by an alley, a portion of the lot that is not buildable on its own cannot be sold off separately. E.g. A detached garage accessory to a single-family dwelling located on a small parcel across an alley from the dwelling cannot be separated from the rest of the zoning lot unless both parcels meet all applicable ordinances of the district as individual zoning lots.

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Lot coverage	<p><u>The area covered by principal and accessory structures. Lot coverage shall not include awnings, canopies, balconies, eaves, and signs that meet the standards for permitted obstructions in required yards and cantilevers that extend not more than two (2) feet from a structure.</u></p>	<p>These components of principal and accessory structures are not included because they are typically located well above grade and have little affect on providing adequate light, air, open space, and separation of uses.</p> <p>(546.150, 547.140)</p>
Lot line: Front lot line	<p>A boundary of a lot which is along an existing or dedicated public street, but not an alley. <u>On a corner lot, the front lot line shall be the lot line that is in line with the predominant platting orientation of the block.</u></p>	<p>The front lot line is determined by the predominant orientation of platted lots on a block, not where a front door is located and oriented.</p> <p>(applicable district yard requirements)</p>
Lot width	<p>The distance between the side lot lines of a lot measured along a straight line parallel to the front lot line immediately in back of the required front yard. <u>Where no front yard is required, lot width is the distance between the side lot lines of a lot measured along the front lot line.</u></p>	<p>Various commercial uses have minimum lot width requirements, but may be located on zoning lots with no front yard requirement.</p> <p>(Table 548-2, Table 549-2, Table 550-2)</p>
Parking facility; off-street	<p>An area, either a parking lot or garage, that provides <u>short-term or long-term off-street parking for motor vehicles. Parking facility includes designated locations for vehicles engaged in loading or unloading of passengers or goods.</u> Off-street p Parking facility does not include commercial or industrial yard areas for storage, handling, processing, pickup or delivery of goods, materials or equipment, such as building materials sales yards, scrap/salvage yards, metal milling facilities, contractor yards and other similar uses. <u>A parking facility may be a principal or an accessory use.</u></p>	<p>Parking facility is a general phrase used to reference any type of parking (e.g. surface, garage, structured, short-term, long-term).</p> <p>(used throughout the code)</p> <p>Short-term parking includes on-site areas designated for drop offs and therefore are not allowed to be located between a principal structure and the front lot line in the R and OR districts.</p> <p>(541.260)</p>

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Parking lot	A ground level, open area used for the <u>short-term or long-term parking of motor vehicles. A parking lot includes the top level of a parking garage when one-half (1/2) or more of the top level is within four (4) feet above or below the adjacent sidewalk grade.</u>	Top levels of parking structures near the sidewalk grade can not be classified as parking lots under the current definition. They have similar aesthetic impacts as a surface parking lot and they do not include enough building structure to provide ground floor active functions, a site plan review and downtown district requirement for parking garages. This is especially a concern downtown where commercial lots are prohibited and accessory lots are limited to 20 spaces. Without the amendment, a lack of street-level active functions can result and these parking levels would not be subject to landscaping and screening requirements applied to surface parking that provide a visual and physical buffer. (530.170, 549.410, 549.460, 549.510, 551.750, 551.760)
Parking space	A space of definite length and width designed for parking of motor vehicles within a parking area that is directly accessible to a parking aisle or driveway <u>and clear of obstructions including curbing and bicycle parking.</u> Said space shall be exclusive of such drives, aisles or entrances giving access thereto.	Obstructions cannot be located within the minimum dimensions required for a parking space. Up to this time, some latitude has been given for installing bicycle racks between or above parking spaces, but consistent standards to allow this have not been applied or created. (541.180, 541.330)
<u>Performing, visual or martial arts school</u>	<u>A facility providing lessons for artistic activities including, but not limited to dance, music, painting, karate, and yoga. A performing, visual or martial arts school shall not include shower facilities.</u>	A performing, visual or martial arts school is different from a minor health and sports facility in that there is a focus on artistic activities. These facilities also cannot include showers. (applicable district use tables)
<u>Pergola</u>	<u>A building-like structure with columns supporting an elevated trellis over which vines or plants may grow.</u>	Provides additional clarification for the differences between pergolas and other yard structures, such as trellises and arbors. (Table 535-1, 537.50, 537.60)

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<u>Preschool</u>	A facility in which educational programs are provided for children from ages twenty-four (24) months to an age eligible to enter kindergarten within the next four (4) months.	Differentiates between an early childhood learning center and a preschool. Although similar, district regulations affect where each may be located. (536.20, applicable district use tables, applicable lot dimension and building bulk requirements tables)
Primary building wall	For the purpose of applying on-premise sign regulations, a <u>primary building wall</u> is an An exterior building wall that faces a street or <u>an exterior building wall</u> that faces an accessory parking area and contains a public entrance. When the exterior building walls are not parallel to a street, they shall be assigned to the street frontage to which they are most oriented.	This phrase is only found in Ch. 543 On-Premise Signs at this time. Applying it to ordinances elsewhere in the zoning code has resulted in unintended alternate interpretations.
<u>Roof, flat</u>	A roof slope with a two (2) foot rise over a twelve (12) foot run or less.	A roof with a 2/12 slope or less is not allowed to be shingled by the building code. (530.280)
Shopping center	A unified development of two (2) or more ground floor commercial uses, excluding offices, operated under common ownership or management, which may be connected by a common wall or may be freestanding, and which may include common parking and signage. A shopping center shall not include: (1) a <u>A</u> storefront building or group of storefront buildings where each use includes a separate principal customer entrance facing the street. (2) <u>A commercial or mixed use building with a separate principal customer entrance for each ground floor use with street frontage with any on-site parking facilities located at the interior or rear of the site.</u>	The shopping center definition currently only excludes buildings located within 5 feet of a front lot line or public sidewalk and where each ground floor use includes a separate principal customer entrance facing the street. The proposed amendment would also exclude “a commercial or mixed use building with a separate principal customer entrance for each ground floor use with street frontage with any on-site accessory parking facilities located at the interior or rear of the site” from being classified as a shopping center. These types of buildings are typically existing buildings divided into multiple tenants or they may not be located within 5 feet of a lot line adjacent to a street. Where allowed, shopping centers require a conditional use permit. These developments typically have little to no more adverse effect than any other multi-tenant development. Processing fewer conditional use permits for shopping centers is also expected as a result of the amendment.
Sports and health	...A minor sports and health facility may include	A sports and health facility that includes showers is

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facility, minor	aerobics, weight training, muscular exercise programs, yoga, pilates or other similar activities. A minor sports and health facility shall not include locker rooms <u>shower facilities</u> .	classified as a major sports and health facility. (Table 547-1, Table 548-1, Table 549-1, 551.360)
Story, half	<p>A story under a gable or hip roof that contains a habitable floor area, including floor area under dormers, not exceeding fifty (50) percent of the floor area of the floor below. <u>A story that meets the following criteria:</u></p> <ol style="list-style-type: none"> <li data-bbox="426 526 1157 708">(1) <u>The half story will be located on a principal residential structure with a maximum district or use height of two and one-half (2.5) stories. A partial story located in any other district or on any other use shall be considered a full story.</u> <li data-bbox="426 727 1157 870">(2) <u>Gross floor area of the half story will be located under a gable or hip roof and all of the roof rafters shall abut the floor joists, except at gable ends or where dormers are allowed.</u> <li data-bbox="426 889 1157 1341">(3) <u>Dormers on the half story will meet the following standards.</u> <ol style="list-style-type: none"> <li data-bbox="485 980 1157 1091">a. <u>The total width of all dormers on any façade will not exceed fifty (50) percent of the width of the wall of the floor below the half story roof.</u> <li data-bbox="485 1110 1157 1221">b. <u>Dormers will be located no closer than three (3) feet from any end-of-house corner of the floor below and any gable end wall.</u> <li data-bbox="485 1240 1157 1341">c. <u>Dormers will not extend beyond the wall below and will not interrupt the eave edge of the hip or gable roof.</u> 	<p>This amendment is written to address many issues related to the interpretation of half story. Only three proposed changes are not based on current zoning administrator interpretations. The first is to limit the use of half stories to structures subject to a maximum height of 2.5 stories. This mainly excludes multi-family dwellings whose side yard requirements are determined by the number of stories. The second change is to eliminate the 50% habitable floor area limitation. This provision has typically not affected the exterior building bulk and does not allow a full build-out of existing attic space. The third change applies to the location of dormers adjacent to the end of a structure. A 3 foot setback is recommended to reduce unbalanced building mass. A diagram has also been added to simplify the interpretation of this definition. Changes to this definition would have no affect on the maximum allowed height of a structure, but they would make this definition much easier for staff to explain and apply as well as make it easier for the public to understand. Most half stories are proposed on single- and two-family dwellings.</p> <p>(building bulk requirements for single and two-family dwellings in the R and OR districts, applicable district building bulk requirements tables, 551.480)</p>

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Structure: Accessory structure and Principal residential structure	Accessory structure. A structure detached from a principal structure, incidental and subordinate to the principal structure or use, including but not limited to garages, sheds, above-ground swimming pools, and fences.	An above-ground swimming pool is an accessory structure subject to lot coverage and maximum accessory structure floor area. (537.60)
	<u>Principal residential structure. Any structure containing a principal residential use.</u>	A principal residential structure includes mixed use buildings with both commercial and residential uses. (535.190, 537.80)
Telephone exchange	A building where phone calls are switched to and from major feeder lines. Telephone exchange shall not include a telecommunication tower, antenna or base site.	Replaced by communication exchange. (district use tables)
<u>Top plate</u>	<u>The part of a stud wall directly below and abutting the roof rafters.</u>	The height of the wall on an accessory structure measured between the ground and the roof eave cannot exceed 10 feet when the height of the structure exceeds 12 feet. (537.50)
<u>Trellis</u>	<u>A framework over which vines and plants may grow that is not a pergola. A freestanding trellis or a trellis attached to and supported by a building extending out from the building more than five (5) feet shall be considered a fence.</u>	Provides additional clarification for the differences between pergolas and other yard structures, such as trellises and arbors. Typically, trellises and arbors are regulated as fences. (Table 535-1, 535.420)
Use:	Accessory use: A use of land or of a building or portion thereof incidental and subordinate to a principal use.	Typo correction.
Yard	An open space on the same zoning lot with a use, building or structure which is unoccupied and unobstructed from its lowest <u>surface</u> level to the sky, except as otherwise provided by this zoning ordinance. A yard extends along a lot line and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.	Subterranean structures that do not extend above grade at any location in a required yard are not subject to setback requirements. (district yard requirements)