

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

Date: December 13, 2010

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: December 18, 2009

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

Planning Staff and Phone: Jason Wittenberg, (612) 673-2297

Intent of the Ordinance: To revise standards for installation of solar energy systems.

Appropriate Section(s) of the Zoning Code: Chapter 535, Regulations of General Applicability; Chapter 537, Accessory Uses and Structures; Chapter 546, Residence Districts; Chapter 547, Office Residence Districts; Chapter 548, Commercial Districts; Chapter 550, Industrial Districts; Chapter 551, Overlay Districts.

Background: The City's existing zoning regulations state that solar energy systems are an allowed accessory use in all zoning districts. However, existing standards contain little or no guidance regarding maximum height, area, or required compliance with required yards. Further, the City's ordinance does not currently address the issue of solar access for solar energy systems.

In conjunction with an increasing interest in renewable energy, this zoning code text amendment would:

- Provide greater clarity for City staff as well as solar installers and property owners.
- Set standards for building-mounted and freestanding (i.e., ground-mounted) systems.
- Clarify that solar access easements may be purchased from nearby property owners, consistent with state statute.
- Require that the City Planning Commission, when evaluating new development projects, consider whether requests for increased allowable building height would result shadowing of existing solar energy systems.

Minneapolis and Saint Paul were selected as Solar Cities by the U.S. Department of Energy in 2008. This includes a grant to make solar energy more accessible for homes and businesses by the year 2015. In an effort to improve the permitting process, a cross-department group recently created a checklist that provides guidance for those obtaining permits for solar energy systems. In recent years, the number of permits issued annually for new solar energy systems has been between five (in 2009) to 18 (in 2006).

Consistent with the City's goal of encouraging renewable energy sources, the City's planned unit development standards were recently amended to include incentives for incorporating on-site energy production in larger, master-planned developments.

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 incorporate more detailed standards governing the installation of solar energy systems. The ordinance is expected to provide clarity and predictability while ensuring that solar energy systems may be installed in a manner that allows for effective energy production. Further, the standards are intended to ensure that these systems are installed in a manner that would not unduly affect community character.

The current ordinance does not provide clarity regarding how solar energy systems are regulated in terms of height, area, or compliance with required yards. Currently, for example, freestanding solar energy systems are considered accessory structures and are regulated similar to garages and sheds. Further, the ordinance currently does not provide guidance regarding whether a roof-mounted solar energy system should be subjected to existing height limitations. The existing zoning ordinance also does not address the issue of solar access for solar energy systems. While the proposed ordinance does not ensure ongoing solar access for individual property owners with solar energy systems, it does clarify that property owners may purchase solar easements from nearby property owners, consistent with state law, and also requires that the City Planning Commission consider the issue of solar access (to existing solar energy systems) when considering conditional use permits to authorize additional building height. This provision is not intended to guarantee perpetual solar access to existing solar energy systems, but a property owner's investment in solar energy should be considered when authorizing building height that may cast shadows on nearby properties.

The amendment would serve the public interest by providing clarity to City staff and the public and by allowing effective use of solar energy. At the same time, the standards would place reasonable limitations on systems that could otherwise adversely affect community character.

Staff does not anticipate problems resulting from the amendment. The ordinance provides for an administrative review process in which the zoning review would be conducted within 15 business days. Staff's experience with similar administrative reviews is that such reviews typically take significantly less than 15 days once a complete application is submitted. A review of a sample of existing solar energy systems in Minneapolis suggests that most systems that have been installed to date would be in compliance with the proposed standards. For new solar energy systems that do not or cannot comply with the new standards, the ordinance includes a conditional use permit process that would authorize the City Planning Commission to grant exceptions to the standards. This process would offer flexibility—more flexibility than a variance process—while also offering nearby property owners an opportunity to review and comment on proposals that may affect their property. The City could place reasonable conditions on applications in order to mitigate any adverse impacts associated with installations that do not meet the standards of the ordinance.

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 the City expects (and hopes for) a substantial increase in the number of solar installations in the near future.

Practices vary substantially regarding municipal zoning regulation of solar energy. See the attached November 2010 issue of *Zoning Practice* for an overview of current practices.

The consequences of denying the amendment are that the current lack of clarity would continue and the ordinance would continue to not address issues such as height and area of solar energy systems.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The Minneapolis Plan for Sustainable Growth includes provisions that support expansion of renewable energy, including the following:

Policy 6.4: Expand the use of renewable energy.

6.3.4 Encourage developments to utilize renewable energy sources, including solar, wind, geothermal, hydro, and biomass.

6.4.4 Take measures for the protection and development of access to sources of renewable energies, especially solar and wind power.

In addition, the following policies speak to the protection of community character and transitions between uses:

Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity.

1.2.1 Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area.

Policy 10.7: Maintain and preserve the quality and unique character of the city's existing housing stock.

10.7.4 Renovation of housing should reflect the setbacks, orientation, pattern, materials, height and scale of surrounding dwellings.

Policy 10.8: Strengthen the character and desirability of the city's urban neighborhood residential areas while accommodating reinvestment through infill development.

10.8.1 Infill development shall reflect the setbacks, orientation, pattern, materials, height and scale of surrounding dwellings.

This amendment would implement the comprehensive plan by ensuring that solar energy systems can be installed throughout the city in a way that effectively promotes renewable energy while preserving neighborhood character.

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.