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Date: July 25, 2017

To: Planning Commission

From: Comprehensive Planning Committee

Subject: Zoning Code Chapter 65 Minor Text Amendments

Background

Chapter 65 and all of the use tables in Chapter 66 use consistent terms and organization. This is important for clarity, for ease of us, and to help avoid confusion. A draft new Article IX, 66.900, Ford Districts to be added to Chapter 66 of the Zoning Code has a simplified use table that groups more uses of similar impact under broader use categories and definitions. This is consistent with American Planning Association guidance for simplifying zoning codes as well as with a City goal for making the Zoning Code as simple and easy to read and use as possible. The other use tables in Chapter 66 will be amended to be consistent with the new use table for the Ford districts. Chapter 65 needs to be amended for consistency with the terms and organization of the new Ford district use table. It also needs to be amended to specifically refer to the Ford districts when that is needed to be clear about standards and conditions for uses that apply in Ford districts.

Zoning Code § 61.801 requires periodic review and reevaluation of the Zoning Code. Last March the Zoning Administrator recommended a number of corrections and minor amendments to clarify language in Chapter 65 and bring it up-to-date based on issues that have come up in administering the code and decisions that have been made in several determination of similar use and nonconforming use permit cases.

Committee Recommendation

The Comprehensive Planning Committee recommends that the Planning Commission initiate a zoning study to consider the following amendments to Zoning Code Chapter 65 for minor corrections, simplification, Ford District integration, and bringing Chapter 65 up-to-date; to release the draft amendments for public review; and to schedule a public hearing on the draft amendments for the September 22, 2017 Planning Commission meeting.

Chapter 65. Zoning Code – Land Use Definitions and Development Standards Draft Text Amendments for Minor Corrections, Simplification, and Ford District Integration

NOTE: Existing language to be deleted is shown by ~~strikeout~~. New language to be added is shown by underlining. [Drafting notes are in brackets.]

ARTICLE II. 65.100. RESIDENTIAL USES

...

~~**Sec. 65.113. Dwelling, three-family.**~~

~~A building designed exclusively for or occupied exclusively by no more than three (3) families living independently of each other in three (3) individual dwelling units.~~ [Covered under *multiple-family dwelling.*]

~~**Sec. 65.114. Dwelling, four-family.**~~

~~A building designed exclusively for or occupied exclusively by no more than four (4) families living independently of each other in four (4) individual dwelling units.~~ [Covered under *multiple-family dwelling.*]

~~**Sec. 65.115. Dwelling, townhouse.**~~

~~A one-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having totally exposed front and rear walls to be used for access, light and ventilation.~~

~~*Development standard:*~~

~~In the RT2 townhouse residential district, no more than six (6) townhouse dwelling units shall be attached to form the townhouse structure.~~ [Covered under *multiple-family dwelling.*]

Sec. 65.113 ~~65.116~~. Dwelling, multiple-family.

A building, or portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other in individual dwelling units.

Development standards in the RT2 townhouse residential district:

No more than six (6) dwelling units shall be attached to form a townhouse structure, and other types of multiple-family dwellings shall contain no more than four (4) dwelling units.

[Three- and four-family dwellings fall under the more general use category "*multiple-family dwelling,*" defined in § 65.116 as a building with 3 or more dwelling units. § 65.115 defines *townhouse dwelling* as more of a building type than as a use: "... a structure whose dwelling units are attached horizontally in a linear arrangement, and having totally exposed front and rear walls to be used for access, light and ventilation." Townhouse is a building type that falls under the more general use category "*multiple-family dwelling.*" Therefore, townhouse and 3-4 family dwelling do not have to be separately defined in Chapter 65 and do not have to be separately listed in the use tables. The amendments above delete the separate sections for townhouses and 3-4 family dwellings, and continue to regulate them the same way under § 65.116, *multiple-family dwelling*. This just changes how these are listed, not how they are regulated.]

Secs. 65.114- ~~65.117~~-65.120. Reserved.

Sec. 65.121. Dwelling, carriage house.

An accessory dwelling in a combined residential and garage building, separate from the main building on the lot, located above and/or adjacent to the ~~a detached~~ garage.

Standards and conditions in residential districts:

(a) The building planned for use as a carriage house dwelling had space originally built to house domestic employees.

(b) The applicant shall obtain a petition signed by two-thirds (⅔) of the property owners within one hundred (100) feet of the applicant's property line consenting to the carriage house dwelling.

(c) The applicant shall not reduce the number of existing off-street parking spaces on the property and shall also provide additional off-street parking as required for the carriage house dwelling.

(d) A site plan and a building plan shall be submitted to the planning commission at the time of application. Carriage house dwellings are exceptions to one (1) main building per zoning lot requirements.

[In some cases part or all of a carriage house dwelling is on the same floor as the garage. The standards and conditions for carriage houses were written to apply to reuse of old accessory dwellings for domestic employees in residential districts, not to construction of new carriage house dwellings such as proposed as part of Ford site redevelopment.]

...

Sec. 65.131. Housing for the elderly.

A multiple-family structure in which eighty (80) percent of ~~e~~ the occupants shall be sixty-two (62) years of age or over, or a multiple-family structure owned and operated by the city public housing agency (PHA) within which over ninety-five (95) percent of the units have no more than one bedroom and are occupied by persons who are eligible for admission to public housing in accordance with current federal regulations.

[Delete an extra "e" in the first line.]

...

Sec. 65.141. Home occupation.

An occupation carried on in a dwelling unit by a resident thereof, provided that the use is limited in extent, incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

Standards and conditions:

...

(b) A home occupation shall not involve the conduct of a general retail or wholesale business, a manufacturing business, a commercial food service requiring a license, a limousine business, ~~or~~ auto service or repair for any vehicles other than those registered to residents of the property, a motor vehicle salvage operation or a recycling processing center, and shall not involve retailing except as noted in paragraph (a).

[A number of complaints have been received about salvaging and recycling out of a residential dwelling. The proposed change would specifically prohibit this.]

...

(g) There shall be no exterior storage of equipment, supplies or commercial or overweight vehicles as defined in Chapter 151 associated with the home occupation, nor parking of more than one (1) business car, pickup truck or small van, nor any additional vehicles except those for permitted employees identified under paragraph (d).

[This proposed amendment would establish a vehicle threshold size when enforcing this section. Sec. 151.02(9) defines an overweight vehicle as: "Any vehicle, with or without load, which weighs more than six thousand (6,000) pounds or is registered for a gross weight of more than nine thousand (9,000) pounds or is greater than twenty-two (22) feet in length and/or seven and one-half (7½) feet in height. This definition includes but is not limited to semi-trailers, tow trucks, buses, limousines, tractors, construction equipment or similar vehicles. This definition excludes licensed, operable recreational vehicles (RV's)."]

...

Sec. 65.151. Adult care home.

...

Standards and conditions:

...

(c) In traditional neighborhood development districts, the site shall contain a minimum of ~~one hundred fifty (150)~~ fifty (50) square feet of outdoor community space per resident, consisting of seating areas, yards and/or gardens. ~~Public parks or plazas within three hundred (300) feet of the site may be used to meet this requirement.~~

[This corrects an error - the proposed change was actually adopted but when the congregate living text amendments were written, an older version of the code was used.]

...

Sec. 65.154. Emergency housing facility.

...

Standards and conditions:

See section ~~65.161~~ 65.162, supportive housing facility, standards and conditions (a) – (d).

Sec. 65.155. Foster home.

...

~~*Development*~~ *Standards and conditions:*

In B1, B2-B3 business, and IT-I2 industrial districts, the use shall be within a mixed-use building. In B4 and B5 business districts, the use shall be within a multiple-family building.

[Corrects coding error – these sentences were intended to be in the same paragraph.]

...

Sec. 65.158. Roominghouse

(1) A~~ny residential structure or~~ dwelling unit~~, supervised or not, which~~ that provides living and sleeping arrangements for more than four (4) unrelated individuals for periods of one (1) week or longer; or

[Apartment buildings, residential structures that typically provide living and sleeping arrangements for more than four unrelated individuals, are not automatically roominghouses.]

(2) A~~ny~~ residential structure or dwelling unit that ~~which~~ provides single room occupancy (SRO) housing as defined in CFR section 882.102 to more than four (4) unrelated individuals; or

(3) A~~ny~~ building housing more than four (4) unrelated individuals that ~~which~~ has any of the following characteristics shall be considered and regulated as a roominghouse:

a. Rental arrangements are by the rooming unit rather than the dwelling unit.

b. Rooming unit doors are equipped with outer door locks or chains which require different keys to gain entrance.

c. Kitchen facilities may be provided for joint or common use by the occupants of more than one (1) rooming unit.

d. Rooming units are equipped with telephones having exclusive phone numbers.

e. Rooming units are equipped with individual intercom security devices.

f. Each rooming unit has a separate assigned mailbox or mailbox compartment for receipt of U.S. mail.

This definition does not include congregate living facilities separately defined in this code.~~:~~

~~(1) Supportive housing facilities as defined in this code.~~

~~(2) Licensed correctional community residential facilities as defined in this code.~~

~~(3) Sober houses as defined in this code.~~

[Adult care homes, dormitories, emergency housing facilities, fraternities, overnight shelters, and shelters for battered persons are also not roominghouses.]

...

Sec. 65.159. Shareable housing.

A residential structure designed for collaborative living, in which individuals share common facilities and amenities. [A use proposed for Ford districts.]

Sec. 65.160. ~~Sec. 65.159.~~ Shelter for battered persons.

...

Standards and conditions for shelters for battered persons serving more than four (4) adult facility residents and minor children in their care:

(a) In residential, traditional neighborhood, Ford and OS-B2 business districts, a conditional use permit is required for facilities serving more than four (4) adult facility residents and minor children in their care.

...

(c) In RL-RT2 residential, traditional neighborhood, Ford, OS-B3 business and IT-I2 industrial districts, the facility shall serve sixteen (16) or fewer adult facility residents and minor children in their care.

...

Sec. 65.161. ~~Sec. 65.160.~~ Sober house.

...

Sec. 65.162. ~~Sec. 65.161.~~ Supportive housing facility.

...

Standards and conditions:

(a) The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from ...

(b) In RL-RT1 residential districts, the facility shall serve six (6) or fewer facility residents. In RT2 residential, traditional neighborhood, Ford, OS-B3 business and IT-I2 industrial districts, the facility shall serve sixteen (16) or fewer facility residents.

(c) In residential, ~~and~~ T1 traditional neighborhood and F1 Ford districts, a conditional use permit is required for facilities serving seven (7) or more facility residents.

...

~~Sec. 65.162—65.191. Reserved.~~

ARTICLE III. 65.200. CIVIC AND INSTITUTIONAL USES

~~Division 1. 65.210. Educational Facilities~~

Sec. 65.210. ~~Sec. 65.231.~~ Cemetery, mausoleum.

Condition in residential districts:

The use shall have lawfully occupied the property at the time of adoption of this code.

Sec. 65.211. ~~Sec. 65.232.~~ Club, noncommercial.

An organization of persons for special purpose or for the promulgation of sports, arts, sciences, literature, politics or the like, but not operated for profit, excluding churches, synagogues or other houses of worship.

~~**Sec. 65.212. School, grades K-12.**~~

~~*Development standard:*~~

~~The school shall offer courses in general education, and shall not be operated for profit.~~

[The planning commission decided that a private junior high boarding school operated by a for-profit corporation at 325 Dayton Ave. was similar to a nonprofit school. It is clear what primary and secondary schools are without a separate definition here.]

Secs. ~~65.213~~ 65.212-65.219. Reserved.

Sec. 65.220. College, university, seminary, or similar institution of higher learning.

...

Standards and conditions except in B4--B5 business districts:

(a) ... To determine compliance with parking requirements ~~in~~, the institution must file an annual report with the planning administrator stating the number of employees, staff and students associated with the institution.

[Remove an extra word, "~~in~~."]

...

Sec. 65.221. ~~Sec. 65.211.~~ Day care.

The care of one (1) or more children on a regular basis, for periods of less than twenty-four (24) hours per day, in a place other than the child's own dwelling unit. Day care includes family day care, group family day care and ~~group day care~~ *child care centers*, as hereinafter defined.

...

(3) ~~*Group day care*~~ *Child care center*. A day care program ~~providing care for more than six (6) children at one time and~~ licensed by the state or the city as a ~~group day~~ child care center. ~~Group day~~ Child care centers includes programs for children known as nursery schools, day nurseries, child care centers, play groups, day care centers for school age children, after school programs, infant day care centers, cooperative day care centers and Head Start programs.

Standards and conditions:

(a) In RL--R4 residential districts, ~~group day care~~ a child care center ~~for more than twelve (12) children at one time~~ shall be located in a nonresidential structure formerly occupied by a church, school or similar facility. In industrial districts, ~~group day care~~ a child care center shall be accessory to a principal use permitted in the district.

...

[In order to bring the code into compliance with current state licensing standards, a group day care facility is proposed to be changed to a child care center. Under current state license rules any facility meeting the definition of a child care center needs to be licensed regardless of the number of children at the facility. Therefore, any reference to the number of children at the child care center should be eliminated.]

Secs. 65.222-65.232. Reserved.

~~Division 2. 65.230. Social, Cultural, and Recreational Facilities~~

...

Sec. 65.236. Religious institution.

A church, chapel, synagogue, temple or other similar place of worship, along with uses directly associated with the place of worship such as a rectory, parsonage, convent, monastery, and religious retreat.

~~Division 3. 65.250. Religious Institutions.~~

~~**Sec. 65.271. Rectory, parsonage.**~~

~~*Condition:*~~

~~The use shall be associated with a church, chapel, synagogue, temple or other similar house of worship.~~

~~**Sec. 65.272. Convent, monastery, religious retreat.**~~

~~*Condition in residential districts:*~~

~~The use shall be associated with a church, chapel, synagogue, temple or other similar house of worship~~.

ARTICLE IV. 65.300. PUBLIC SERVICES AND UTILITIES

Sec. 65.310. Antenna, cellular telephone.

A device consisting of metal, carbon fiber, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of radio waves in wireless telephone communications.

Standards and conditions:

(a) In residential, traditional neighborhood, Ford and business districts, a conditional use permit is required for cellular telephone antennas on a building less than forty-five (45) feet high or on a freestanding pole, except for existing utility poles or replacement utility poles required for structural reasons that match the size and appearance of the existing utility pole it replaces. In residential and traditional neighborhood districts, existing utility poles or replacement utility poles to which cellular telephone antennas are attached shall be at least sixty (60) feet high unless the antennas are located within a canister of a maximum three (3) feet in height and eighteen (18) inches in diameter that is colored to blend with the pole, in which case the pole shall be at least twenty-five (25) feet high. Conditional use permit review for such antennas will take into account not only the request made by the application, but also any future eligible facility modifications allowed under 47 CFR § 1.40001, such as antennas of a more obtrusive design or placement than the subject application. A conditional use permit is not required for any eligible facility modification allowed under 47 CFR § 1.40001, nor for any "small wireless facility" placement in the public right-of-way that meets the requirements of Minnesota Statutes 237.162 and 237.163.

[The first two additions clarify that a new pole can be considered the same as an existing utility pole when it matches what had been the existing pole, but requires replacement solely for structural reasons, which is a very common situation that would seem to meet the existing code's intent. The third addition allows for small canisters containing antennas to be placed upon light poles, as has occurred numerous times downtown and recently on/near college campuses. The aesthetic impact in those situations is very minimal. This would not affect applications in the right-of-way because of the fourth addition. The fourth addition refers to MN Revised Statutes due to a new law that makes "small wireless facilities" (by their definition: generally 6 cubic feet or less in size, of whatever appearance) a permitted use in the right-of-way for all collocations on existing poles, plus for erecting new poles in ROWs that are not in a residential or historic district.]

(b) In residential, traditional neighborhood, Ford and OS-B3 and B5 business districts, the antennas shall not extend more than fifteen (15) feet above the structural height of the structure to which they are attached. In B4 business and industrial districts, the antennas shall not extend more than forty (40) feet above the structural height of the structure to which they are attached.

(c) For antennas proposed to be located on a building less than forty-five (45) feet high in residential, traditional neighborhood, Ford and business districts, or on a new freestanding pole in residential, traditional neighborhood, Ford and business districts, the applicant shall demonstrate that the proposed antennas cannot be accommodated on an existing freestanding pole or an existing structure

at least forty-five (45) feet high within one-half (½) mile radius of the proposed antennas due to one (1) or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of the existing pole or structure.

(2) The planned equipment would cause interference with other existing or planned equipment on the pole or structure.

(3) The planned equipment cannot be accommodated at a height necessary to function reasonably.

(4) The owner of the existing pole, structure or building is unwilling to co-locate an antenna.

(d) In residential, traditional neighborhood, Ford and business districts, cellular telephone antennas to be located on a new freestanding pole are subject to the following standards and conditions:

(1) The freestanding pole shall not exceed seventy-five (75) feet in height, unless the applicant demonstrates that the surrounding topography, structures, or vegetation renders a seventy-five-foot pole impractical. Freestanding poles may exceed the above height limit by twenty-five (25) feet if the pole is designed to carry two (2) antennas.

(2) Antennas shall not be located in a required front or side yard and shall be set back one (1) times the height of the antenna plus thirty-eight (38) feet from the nearest residential building

(3) ~~The antennas shall be designed where possible to blend into the surrounding environment through the use of color and camouflaging architectural treatment. Drawings or photographic perspectives showing the pole and antennas shall be provided to the planning commission to determine compliance with this provision.~~

~~(4)~~ In residential, ~~and~~ traditional neighborhood and Ford districts, the pole shall be on institutional use property at least one (1) acre in area. In business districts, the zoning lot on which the pole is located shall be within contiguous property with OS or less restrictive zoning at least one (1) acre in area.

...

(h) Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary, it shall be permitted and regulated as an accessory building, section 63.500~~, and screened from view by landscaping where appropriate~~.

(i) In residential, traditional neighborhood, business, and Ford districts, antennas, support structures and transmitting, receiving and switching equipment shall blend into the surrounding environment to the greatest extent possible through the use of color, camouflaging architectural treatment, and landscaping where appropriate. Antennas on a structure shall be aesthetically compatible with the structure. Scaled drawings or photographic perspectives showing the antenna, pole and equipment building and a landscape and landscape maintenance plan shall be submitted with the permit application showing compliance with this provision.

(~~ji~~) Cellular telephone antennas, poles and supporting structures and equipment buildings that are no longer used for cellular telephone service shall be removed within one (1) year of nonuse.

[There are currently only appearance standards for cellular telephone antennas on freestanding poles and not for those on structures. Since both types of antennas can be incompatible with the surroundings, the proposed change would delete appearance standards from freestanding poles and add an appearance standards paragraph that address both freestanding antennas and antennas on structures.]

...

Sec. 65.320. Electric transformer or gas regulator station.

Standards and conditions in Ford and business districts.

There may be service yards, but there shall be no storage yards.

Sec. 65.321. Municipal building or use.

Development standard in residential, traditional neighborhood, Ford and OS—B4 business districts:

There shall be no outdoor storage.

Sec. 65.322. Utility or public service building.

Utility and public service buildings include such things as water and sewage pumping stations and telephone exchange buildings.

Standards and conditions in residential, traditional neighborhood, Ford and OS—B4 business districts:

(a) Except for off-street parking and loading, the use shall be completely enclosed within a building. There shall be no outside storage.

(b) Except in business districts, the application shall include substantiating evidence that operating requirements necessitate locating the use within the district in order to serve the immediate vicinity.

...

ARTICLE V. 65.400. COMMERCIAL USES

Division 1. 65.410. ~~Offices~~ Office, Retail and Service Uses

Sec. 65.411. ~~65.412.~~ General ~~Professional~~ office, studio.

General office and studio uses ~~Professional offices~~ include, but are not limited to, administrative, insurance, real estate, and sales offices; artist and photographer studios; and offices of professionals such as accountants, architects, attorneys, auditors, bookkeepers, engineers and financial planners.

[This simplifies the code by grouping administrative offices, professional offices, artist and photographer studios, and insurance, real estate and sales offices under a single, broader use category. These are similar uses of similar impact that are permitted in the same zoning districts. There is no need to list them separately in the use tables.]

~~Division 2. 65.450. Medical Facilities~~

~~**65.451. Clinic, Medical or dental.**~~

~~An establishment where human patients who are not lodged overnight are admitted for examination and/or treatment by a group of physicians, dentists or similar professionals.~~

[The ordinarily accepted meaning of these terms is so commonly understood that the separate definition for this is not necessary, and this section can be deleted. *Medical or dental clinic or laboratory* is listed in the definition of "*general service business*" below, and doesn't have to be separately listed.]

~~Division 3. 65.500. Retail Sales and Services~~

Sec. 65.412. ~~65.510.~~ General retail.

General retail sales include the retail sale of products to the general public, sometimes with provision of related services, and produce minimal off-site impacts. General retail sales include but are not limited to the following:

(a) Antiques and collectibles store;

(b) Art gallery;

(c) Bakery;

(de) Bicycle sales and repair;

(ed) Book store, music store;

(f) Butcher shop;

(g) Catering;

(h e) Clothing and accessories;

(i) Deli;

(jf) Drugstore, pharmacy;

(kg) Electronics sales and repair;

(lh) Florist;

(m) Food and related goods sales;

(ni) Jewelry store;

(oj) Hardware store;

(p) Liquor store;

(qk) News stand, magazine sales;

(rl) Office supplies;

(sm) Pet store;

(tn) Photographic equipment, film developing;

(uo) Stationery store;

(wp) Picture framing; and

(xq) Video store.

Standards and conditions:

In traditional neighborhood districts, a conditional use permit is required for new construction covering more than twenty thousand (20,000) square feet of land to ensure size and design compatibility with the particular location.

[Adding bakery, catering, deli, food and related goods sales, and liquor store to the definition of *general retail* simplifies the code and use tables by eliminating the need to separately list these similar uses of similar impact.]

Sec. 65.413. ~~65.533.~~ Service business, general.

Service businesses include provision of services to the general public that produce minimal off-site impacts. Service businesses include but are not limited to the following:

(a) Bank, credit union;

(ba) Barber and beauty shops;

(cb) Dry-cleaning pick-up station;

(d) Food shelf;

(ee) Interior decorating/upholstery;

(f) Laundromat, self-service;

(gd) Locksmith;

(he) Mailing and packaging services;

(i) Massage center;

(j) Medical or dental clinic or laboratory;

(k~~f~~) Photocopying;

(l) Post office;

(m~~g~~) Radio and television service and repair;

(n~~h~~) Shoe repair;

(o) Small appliance repair;

(p~~i~~) Tailor shop; and

(q~~j~~) Watch repair, other small goods repair.

(Ord 15-5, § 2, 2-5-15)

[Adding bank, credit union, food shelf, self-service laundromat, massage center, medical or dental clinic or laboratory, post office, and small appliance repair to the definition of *general service business* simplifies the code and use tables by eliminating the need to separately list these similar uses of similar impact.]

Sec. 65.414. ~~65.534.~~ Service business with showroom or workshop.

...

Secs. 65.415-65.500. Reserved.

Sec. 65.501. ~~65.511.~~ Alternative financial establishment.

...

Sec. 65.502. Animal boarding, animal shelter.

An establishment for the keeping and care of domestic pets for more than 24 hours by a person other than the owner of the animal and not associated with a veterinary clinic.

Standards and conditions:

(a) In traditional neighborhood districts, all activity shall take place within completely enclosed buildings except for the walking of dogs.

(b) An outdoor kennel or exercise/relief area shall be entirely enclosed with a fence and the animals shall not be kept outdoors between the hours of 10 p.m. and 6 a.m. The property where the use is located shall not adjoin residentially zoned property.

Sec. 65.503. Animal day care.

An establishment providing exercising and socializing for domestic pets on a daily basis for less than twenty-four (24) hours per day by a person other than the owner of the animal.

Standards and conditions:

(a) In traditional neighborhood, Ford and B3-B4 business districts, all activity shall take place within completely enclosed buildings except for the walking of dogs.

(b) In industrial and B5 business districts, an outdoor exercise/relief area shall be entirely enclosed with a fence. The property where the use is located shall not adjoin residentially zoned property.

[Standards for *animal boarding* and *animal day care* added to reflect Planning Commission decisions in several determination of similar use and nonconforming use permits in the following zoning files: #07-064978, #16-064802, #12-109252, #13-239519, #06-273087, #10-506183, #10-900721, and #12-215800. Both animal day care and animal boarding require a Saint Paul license under Chapter 348 that establishes minimum standards for the safekeeping of animals, noise, odors, sanitation, external effects, and inspections, and that requires a neighbor petition.]

Sec. 65.504. ~~Sec. 65.411.~~ Artist's Studio.

A place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan or craftsperson, including persons engaged in the application, teaching or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture and writing.

[While *artist's studio* is proposed to be included in the definition of *"general office, studio"* above, a broader land use category that would be listed in the use tables, this separate definition of *artist studio* is still needed to state that an *artist's studio* may be used as a dwelling place by the artist.]

...

Secs. 65.505-65.511. Reserved.

...

Sec. 65.513. Drive-through sales and services, ~~primary~~ principal and accessory.

...

Secs. 65.516-65.517. Reserved ~~Food and related goods sales.~~

~~Retail sales of food and related goods include the following:~~

~~(a) Grocery store, supermarket;~~

~~(b) Butcher shop;~~

~~(c) Bakery;~~

~~(d) Candy store;~~

~~(e) Produce shop, or other specialty food shop;~~

~~(f) Retail food establishment; and~~

~~(g) Catering.~~

~~*Standards and conditions:*~~

~~See section 65.510, general retail.~~

[*Food and related goods sales* is listed under *general retail* above.]

~~**Sec. 65.517. Food shelf.**~~

~~A place where groceries are provided at no cost to individuals in emergency situations and where such groceries are consumed off site~~.

[*Food shelf* is listed under *general service business* above. A separate definition for this is not necessary.]

...

Sec. 65.521. ~~65.452.~~ Hospital.

...

~~**Sec. 65.521. Liquor store.**~~

~~*Standards and conditions:*~~

~~See section 65.510, general retail.~~

[*Liquor store* is listed under *general retail* above.]

~~**Sec. 60.522. Massage center.**~~

~~A building or portion of a building which is used for offering "massage," defined as the rubbing, stroking, kneading, tapping or rolling of the body, for the purposes of pleasure, relaxation, physical fitness or beautification, offered for a fee or other valuable consideration. This definition shall include any building, room, structure, place or establishment used by the public, other than a hospital, sanatorium, rest home, nursing home, boardinghome or other institution for the hospitalization or care of human beings, duly licensed under the provisions of Minnesota Statutes, sections 144.50 through 144.703, inclusive, where nonmedical and nonsurgical manipulation exercises or massages are practiced upon the human body for a fee or other valuable consideration by anyone not duly licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, with or without the use of mechanical, therapeutic or bathing devices, or any room or rooms from which a massage therapist is dispatched by telephone or otherwise for the purpose of giving a massage~~.

[This definition is unnecessary, and this section can be deleted. *Massage center* is listed in the definition of "*general service business*" above, and doesn't have to be separately listed in the use tables.]

Secs. ~~65.523,~~ 65.522-65.524. Reserved.

…

Sec. 65.532-65.534. Reserved.

Sec. 65.535. Tobacco products shop.

A retail establishment with a principal entrance door opening directly to the outside that derives more than ninety (90) percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, electronic cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Tobacco products shop" does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

[The City Council decided that the sale of electronic cigarettes should be added to the list of products that require a license for the sale of tobacco under Chapter 324. DSI has determined that the sale of electronic cigarettes is included in the zoning code definition of a tobacco products shop. To reinforce that position and to be consistent with the license ordinance, staff proposes that electronic cigarettes be added to the definition of a tobacco products shop.]

…

Sec. 65.536. ~~65.453.~~ Veterinary clinic.

…

Division 2 ~~Division 4~~. 65.600. Food and Beverages

Sec. 65.610. Bar.

An establishment that serves wine, beer, or intoxicating liquor for consumption on the premises any time between midnight and 2:00 a.m.

Standards and conditions ~~in traditional neighborhood and B2 community business districts~~:

In traditional neighborhood, Ford and B2 community business districts, a conditional use permit is required for a bar of more than five thousand (5,000) square feet in floor area to ensure size and design compatibility with the particular location

…

Sec. 65.612. Coffee kiosk.

…

Standards and conditions:

See section 65.513~~710~~, drive-through sales and services, ~~primary~~ principal and accessory.

Sec. 65.613. Coffee shop, tea house.

An establishment engaged principally in the sale of coffee, tea, and other nonalcoholic ~~nonalcohalic~~ beverages for consumption on the premises or for carryout, which may also include the sale of a limited number of food items as allowed under a limited food menu license ~~restaurant C licence~~.

[Spelling error. The city no longer licenses food establishments, the state does. The state licenses for food establishments are:

- **Limited Food Menu** - prepackaged food that receives heat treatment and is served in the package, continental breakfast, soft drinks, coffee, nonalcoholic beverages.
- **Small Establishment** - food service with no salad bar, equipment not exceeding: one deep fat fryer; one grill; two hot holding containers; microwaves, or service of dipped ice cream/soft serve frozen desserts, or breakfast service in a bed and breakfast operation, or boarding establishments. *Establishments which do not provide catering service and which meet "Medium Establishment" equipment criteria but have a total seating capacity of 50 or less are "Small Establishments."*
- **Medium Establishment** - food service using a range, oven, steam table, salad bar, or salad prep area, more than one deep fat fryer or grill, more than two hot holding containers, or involving catering.
- **Large Establishment** - food service that meets the full menu definition and seats more than 175 people, serves a full menu selection an average of five or more days per week or caters 500 or more meals per day.]

...

Sec. 65.614. Restaurant.

A public eating place which serves a substantial portion of its food for consumption at tables or counters located on the premises. This term shall include a deli with seating for more than twelve (12) customers~~, but not be limited to, an establishment known as a café, smorgasbord, diner or similar business. Any facilities for carry-out shall be clearly subordinate to the principal use of providing foods for consumption on the premises~~.

Standards and conditions:

(a) In T2-T3 traditional neighborhood districts, a conditional use permit is required for establishments of more than fifteen thousand (15,000) square feet in floor area to ensure size and design compatibility with the particular location.

(b) Outdoor restaurants shall be accessory to an indoor restaurant or a farmers market.

Sec. 65.615. Reserved. ~~Restaurant, carry-out, deli.~~

~~A retail food service business, including delis, which sells ready-to-eat foods, usually in bulk quantities, primarily for consumption off the premises. A carry-out restaurant that has more than limited seating (twelve (12) or fewer seats), or seventy-five (75) square feet of patron area, shall be deemed to be a restaurant for zoning purposes.~~

~~*Standards and conditions:*~~

~~See section 65.614, restaurant.~~

[Grocery stores often have a deli, so *deli* is proposed to be listed along with *food and related goods sales* under *general retail*. § 65.615, *restaurant, carry-out, deli*, just refers to standards and conditions is § 65.614, *restaurant*. Language in § 65.615 about a carry-out restaurant/deli being a restaurant if it has a certain amount of seating or patron area is proposed to be moved to the definition of *restaurant* above, and then § 65.615 can be deleted and *restaurant, carry-out, deli* would not need to be separately listed in the use tables. Carry-out restaurants with less seating or patron area would either be a deli or a fast-food restaurant.]

Sec. 65.616. Restaurant, fast-food.

A public eating place~~, other than a carry-out restaurant,~~ designed for rapid food delivery to customers seated in their automobiles or from a counter or drive-through window, with minimal personal service and for consumption on or off the premises. All restaurants with drive-through service are considered fast-food restaurant.

Any restaurant whose design or principal method of operation includes four (4) or more of the following characteristics shall be deemed a fast-food restaurant for zoning purposes:

…

~~**Sec. 65.617. Restaurant, outdoor.**~~

~~*Development standard:*~~

~~The use shall be accessory to an indoor restaurant or a farmers' market.~~

[Outdoor restaurants are permitted in the same districts as restaurants. Language in § 65.617, r*estaurant, outdoor*, about an outdoor restaurant needing to be accessory to an indoor restaurant or a farmers market is proposed to be moved to the standards and conditions for a *restaurant*, and then § 65.617 can be deleted and *outdoor restaurant* would not need to be separately listed in the use tables.]

Division 3 ~~Division 5~~. 65.640. Commercial Recreation, Entertainment and Lodging

…

Sec. 65.644. Indoor recreation.

Bowling alley, billiard hall, indoor archery range, indoor tennis courts, racquet ball and hand ball~~;b0;~~ courts, dance hall, electronic game room, indoor skating rink, and similar forms of indoor commercial recreation.

~~*Development standard:*~~

~~(a) The building in which the use is located shall be at least one hundred (100) feet from the closest point of any residential lot in a residential district.~~

~~*Additional* Standards and conditions in traditional neighborhood districts:~~

(a~~b~~) Primary access shall be from an arterial or collector street.

(b~~e~~) Floor area shall not exceed 40,000 square feet.

[Correct typo in definition. Delete setback requirement from a residential lot to be consistent with other similar uses such as bingo hall and health/sports club that do not have such a setback requirement, and in light of BZA case experience, The Trapped Puzzle Room, 561 S. Snelling, received a variance from the 100 foot required setback from a residential lot, which seemed unnecessary.]

…

Division 4 ~~Division 6~~. 65.660. Adult Entertainment

…

Division 5 ~~Division 7~~. 65.700. Automobile Services

…

Sec. 65.703. Auto service station.

…

Standards and conditions:

(a) The construction and maintenance of all driveways, curbs, sidewalks, pump islands or other facilities shall be in accordance with current city specifications. ~~Such specifications shall be developed by the planning administrator, traffic engineer and city fire marshal, and shall be approved by the planning commission, and filed with the city clerk.~~

[Technical specifications for auto service stations are established by the various reviewing departments based on current rules and standard operating practices and are imposed at part of the site plan review process.]

...

Sec. 65.707. Car wash, detailing.

[The Zoning Administrator considers an auto detailing operation to be the same as a car wash.]

...

Division 6 ~~Division 8~~. 65.730. Parking Facilities

...

Division 7 ~~Division 9~~. 65.750. Transportation

...

Sec. 65.762. Railroad right-of-way.

Development standard:

In residential, traditional neighborhood, Ford, and OS-B3 business districts, there shall be no terminal freight facilities, transfer or storage tracks.

Division 8 ~~Division 10~~. 65.770. Limited Production, Processing and Storage

Sec. 65.771. Agriculture.

...

(j) Accessory buildings shall not exceed an area greater than ten (10) percent of the parcel or one thousand (1000) square feet, whichever is greater. Temporary structures, not exceeding one hundred eighty (180) days per year, such as hoophouses, cold frames, and similar structures located above gardening plots and being used to extend the growing season are permitted. A building permit is required for any temporary structure covering an area greater than ~~one hundred twenty (120)~~ two hundred (200) square feet.

[The threshold for requiring a building permit under the building code for an accessory structure has changed from 120 square feet to 200 square feet, necessitating this change.]

...

ARTICLE VII. 65.900. ACCESSORY USES

...

Sec. 65.915. Hot tub, outdoor.

Standards and conditions:

All yards containing hot tubs shall be secured as required in section 65.923(d)~~(c)~~ or shall have a cover, which shall be locked when the hot tub is not in use. A hot tub shall not be located in a required front or side yard, less than three (3) feet from any lot line, or in a public easement. ~~A hot tub shall be located at least three (3) feet away from any lot line.~~

[Moved from the swimming pool regulations under Sec. 65.923.]

...

Sec. 66.922. Support services in housing for the elderly.

Support services within elderly housing as defined in section 65.131 ~~65.123~~ including limited food service, beauty salon and related goods sales areas.

Development standard in residential districts:

Support service areas shall not exceed five (5) percent of designated community room area.

[Correct the wrong citation. The development standard is intended to apply in residential districts where commercial uses are more limited. It is not intended to apply in mixed-use and business districts where these uses are otherwise permitted.]

Sec. 65.923. Swimming pool, outdoor.

~~A pool or tub constructed either above or below grade and having a capacity of five thousand (5,000) or more gallons.~~ Any structure designed, constructed or intended to be used for outdoor swimming, either above or below grade, with a capacity of twenty-four (24) or more inches deep and having one hundred fifty (150) or more square feet of surface area.

[To be consistent with the changes made to Sec. 34.07 under Ord. 15-49.]

Standards and conditions:

(a) There shall be a distance of not less than ten (10) feet between the adjoining property line and the outside of the swimming pool wall for aboveground pools. For in-ground swimming pools, there shall be a distance of not less than five (5) feet between the adjoining property line and the outside of the pool wall.

(b) There shall be a distance of not less than four (4) feet between the outside swimming pool wall and any building located on the same lot.

(c) A swimming pool shall not be located in a required front or side yard, less than ten (10) feet from any street or alley right-of-way, or in a public easement.

(d) ~~A hot tub shall not be located in a required front or side yard, less than three (3) feet from any lot line, or in a public easement.~~ [Belongs under Sec. 65.915, *hot tub, outdoor*.]

~~(e)~~ All yards of one- and two-family structures containing swimming pools shall be enclosed by an obscuring fence or wall not less than four (4) feet in height, maintained in a professional state of maintenance or repair, and shall be constructed such that no openings, holes or gaps in the fence or wall exceed four (4) inches in any dimension except for openings protected by a door or gate. All yards of residential structures of three (3) or more units and commercial structures containing swimming pools shall be enclosed by an obscuring fence not less than five (5) feet in height, maintained in a professional state of maintenance or repair, and shall be constructed such that no openings, holes or gaps in the fence or wall exceed four (4) inches in any dimension except for openings protected by a door or gate. Sidewalls greater than four (4) or five (5) feet in height on an above ground outdoor swimming pool are not a substitute for the appropriate fence or wall. The gates shall be of a self-closing and self-latching type, with the latch on the inside of the gate, not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use.

[To be consistent with the changes made to Sec. 34.08(12) under Ord. 15-49.]

city of saint paul
planning commission resolution
file number _____
date _____

CHAPTER 65 TEXT AMENDMENTS ZONING STUDY INITIATION

WHEREAS, Zoning Code § 61.801 requires periodic review and reevaluation of the Zoning Code, and provide for the Planning Commission to initiate amendments to the Zoning Code; and

WHEREAS, in March 2017 the Zoning Administrator recommended a number of corrections and minor amendments to clarify language in Zoning Code Chapter 65 and bring it up-to-date based on issues that have come up in administrating the code and decisions that have been made in several determination of similar use and nonconforming use permit cases; and

WHEREAS, a new Article IX, 66.900, Ford Districts to be added to Chapter 66 of the Zoning Code has a simplified use table that groups more uses of similar impact under broader use categories and definitions, consistent with American Planning Association guidance for simplifying zoning codes and with a City goal for making the Zoning Code as simple and easy to read and use as possible, and the other use tables in Chapter 66 will be amended to be consistent with this; and

WHEREAS, Chapter 65 needs to be amended for consistency with the terms and organization of the new Ford district use table; and

WHEREAS, Chapter 65 also needs to be amended to specifically refer to the Ford districts when that is needed to be clear about standards and conditions for uses that apply in ford districts;

NOW, THEREFORE, BE IT RESOLVED, under provisions of Legislative Code §61.801, that the Planning Commission hereby initiates a zoning study to consider amendments to Zoning Code Chapter 65 for minor corrections, simplification, Ford District integration, and bringing Chapter 65 up-to-date.

moved by _____
seconded by _____
in favor _____
against _____