

COMMUNITY DEVELOPMENT

MEMORANDUM

Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

To: Mayor and City Council Members

Cc: Gregg Mandsager, City Administrator
Dave Gobin, Community Development Director

From: Andrew Fangman, City Planner

Date: February 16, 2017

Re: Resolution Setting a Public Hearing on an Ordinance Amending Title Ten of the City Code, Zoning Ordinance

The current zoning ordinance, contained in Title 10 of City Code, largely dates to early 1970's, and is structured to implement the vision contained in the 1968 Comprehensive Plan. In September of 2013 a new Comprehensive Plan was adopted. Rewriting the zoning ordinance is the most important step in implementing the vision of the new Comprehensive Plan, with the new Comprehensive Plan becoming the basis of a revised Zoning Ordinance.

The revised zoning ordinance will have sufficient flexibility to be adapted unique and difficult site conditions and to preserve the unique character of individual neighborhoods. The zoning ordinance will also be made more user friendly through the use of extensive illustrations. Because of the scope of rewriting an entire zoning ordinance, the project will be broken into several pieces, the first set of proposed changes, will deal with chapters regulating parking, garage and accessory buildings, fences, cell towers, animals in residential areas, and sight triangle regulations. In addition to these major proposed changes, there is also formatting changes and minor updating being proposed for the rest of Title 10. Later in 2017 additional revision to other portions of the zoning ordinance will be brought forward.

Following is an overview of the proposed changes and the rational for the proposed changes.

Formatting and Minor Updating

To make the zoning ordinance more user friendly, it has been reformatted into single topic chapters. Each single topic chapter will contain all relevant regulations relating to the topic covered by the chapter. This significant change from the format of the current zoning ordinance. For example, in the current zoning ordinance regulations regarding off street parking are scattered across 18 chapters within Title 10, the proposed zoning ordinance will centralize all

parking regulations into a single chapter. Many chapters within the current zoning ordinance cover a diverse and unrelated range of subjects. For example, Chapter 19 regulates accessory buildings, signs, canopies, awnings, fences, mobile homes, nonconforming uses, and cemeteries. The proposed zoning ordinance places each one of these unrelated subjects into its own stand-alone chapters, making it easier for user of the zoning ordinance to locate the topic they are interested in.

Chapter 10-20: Garage, Accessory Building, & Accessory Uses

This chapter covers garages, accessory buildings, and accessory use regulations. The majority of these regulations remain unchanged from the current zoning ordinances. However, two major changes relating to the maximum size for accessory buildings in residential areas and a change to allow for more setback flexibility for accessory buildings as they relate to alleys are being proposed. These regulations have also been reformatted and illustrated in order to make them more user friendly.

The most frequent variance applied for are those to allow for the construction of a garage that exceeds the cumulative limited of 1,440 square feet for garages and accessory buildings in residential zoning districts. Since 2000, the Zoning Board of Adjustment has approved 18 variances to allow for the construction of garages over 1,440 square feet and has only denied two such requests. Such frequent and consistent approval of the same type of variance is a clear indication that a regulatory change is warranted. The proposed change to regulations relating to the maximum size of garages and accessory building in residential districts seeks to codify the type of variances that the Zoning Board of Adjustment has been routinely and consistently approving. Through these actions, the Zoning Board of Adjustment has made it clear that garages larger than 1,440 square feet are appropriate under certain circumstances.

Since 2000, all approved variances for garages over 1,440 square feet in size have occurred on parcels over 20,000 square feet in size. Of the two variances for a garage over 1,440 square feet that were denied in this same period of time, one was on a parcel under 20,000 square feet in size. Of the 18 approved variances for oversized garages during this period of time, only one exceeded 2,500 square feet in size. The proposed change to regulations regarding the maximum cumulative garage size in residential districts codifies these trends in approved variances.

The current cumulative maximum size limit for garages and accessory buildings of 1,440 square feet for all parcels in a residential district is being proposed to be replaced with two new regulations. For parcels smaller than 20,000 square feet, the current maximum cumulative size for garages and other accessory buildings will remain at 1,440 square feet. For parcels of at least 20,000 square feet the maximum cumulative size for garages and other accessory buildings will be 2,500 square feet or 7.2% of the total parcel size, whichever is less. It should also be noted that 1,440 is 7.2% of 20,000.

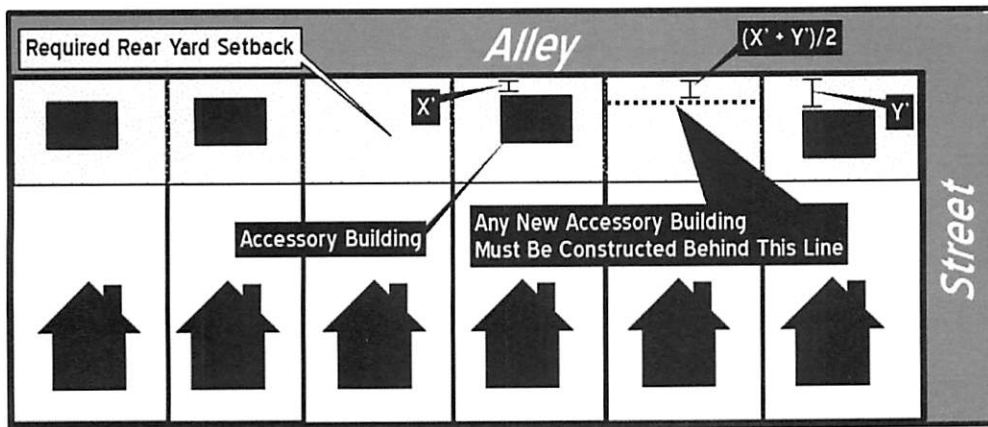
The other significant changes being proposed to the zoning ordinance as it relates to garages, accessory buildings, and accessory uses is to add more setback flexibility for accessory buildings

as they relate to alleys. In many older parts of town, it is typical for a detached garage to be located directly adjacent or very close to the alley right-of-way line. These detached garages were nearly all constructed prior to adoption of the current zoning ordinance, are now located in the rear yard setback, and are only allowed as a nonconforming use.

Action LU.5.1 of the recently adopted City of Muscatine Comprehensive Plan states, "Adopt regulations and design standards to protect the desired street and block patterns, land use patterns, and development characteristics of the City's established neighborhoods, such as building size and height, building setbacks, density, parking, landscaping, and streetscape improvements." The proposed regulatory change works towards implementing this Comprehensive Plan directive by permitting for detached garages to be located within the standard rear yard setback, in areas where this is the predominate building pattern.

The proposed new regulation would permit an accessory building to be constructed in the required rear yard setback when the following conditions are met:

- The rear yard abuts an alley.
- 50% of parcels on the block and located on the same side of the alley as the subject parcel, contain an existing accessory building within the required rear yard setback.
- Any new accessory building that is constructed within the rear yard setback shall not be located nearer to the alley right-of-way than the average distance to alley right-of-way of the nearest two accessory buildings located on the same side of the alley as the subject parcel.



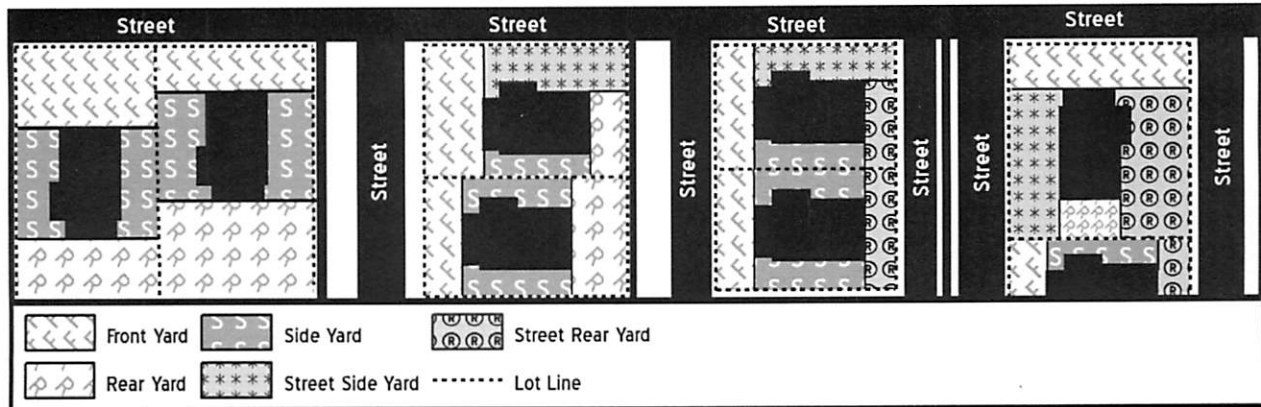
Chapter 10-21: Fence Regulations

Fencing regulations need to balance the safety and aesthetic needs of the community as a whole, with the need for residents to create a more private outdoor space through the use of visual screening. Under the current Zoning Ordinance, depending on the location on a lot, there are two standards for the maximum height of fencing in residential areas. In the area within the first 25 feet between any property line which abuts a street and the dwelling, fences shall not exceed three feet in height (if less than 75% open), but may be up to six feet in height, if the fencing is an open type (at least 75% open), such as chain link. In all other areas of a residential lot, fencing may be constructed up to six feet and may be totally opaque.

Current fence height regulations are structured to maximize visibility through and over any fencing located in close proximity to a street. This visibility is mandated for both safety and aesthetic reasons. It is within this area that any driveways would be located. Traffic entering and exiting driveways needs to be visible to vehicles and pedestrians on the adjoining street and sidewalk and vice versa. Visibility through and over any fencing located in close proximity to a street is also preserved in order to make the residential streetscape more attractive, by ensuring that the streetscape is comprised of things more attractive than the back of 6 feet high opaque fence.

The current fence height regulations have largely succeeded in achieving their safety and aesthetic objectives. However, for many lots which front more than one street, typically corner lots, current regulation have made it nearly impossible for some property owners to create a usable outdoor space that is not visible from the street. This is because that for numerous lots with multiple street frontages most of the yard space is located in areas where any fencing may not exceed 3 feet, unless it is an open type (at least 75% open), such as chain link. For lots with outdoor pools and multiple street frontages, this issue of the property owner not being able to create an outdoor space screened from public view through fencing is the most acute. The height of fencing required around outdoor pool is higher than three feet, and outdoor pools are a use which creates a higher demand for privacy. There are numerous lots on which it would be difficult to comply with applicable pool fencing requirements and screening pool users from a nearly unobstructed view by passersby on the street.

The proposed fencing regulations will strike a better balance between the competing needs of safety and aesthetic needs of the community as whole, with the need to give residents the ability to create a more private outdoor space by increasing fencing and screening options for parcels with more than one street frontage. Regulations for lots with just one street frontage are not being proposed for change, as they are functioning well as currently written. For the purpose of regulating fences the proposed regulations would no longer treat all yards that abut a street as front yards. For parcels with multiple street frontages a single front yard would be defined and the other yards abutting streets would be defined as "street side yards" or "street rear yards". The following diagram illustrates how yards would be defined for the purpose of fencing regulations.



Fencing regulations for front yards would be the same for all lots, regardless of the number of streets that they front, and would be the same as current regulations for fencing in front yards, as would regulations for side and rear yards not abutting a street.

The proposed regulations would change the maximum height for fencing in street side yards. Following are the limits for the maximum height for fencing that is more than 25% opaque in street side yards:

Distance from property line

- Within 6 feet of the property line: 3 feet
- Between 6 feet and 25 feet of the property (or the distance to the building line, whichever is less): 4.5 feet
- Beyond 25 from the property or the distance to the building line (whichever is less): 6 feet

This new approach will better balance the conflicting needs of the community for visibility and street streetscape aesthetics with the ability of residents to create a private outdoor space through visual screening. The proposed regulations continue to restrict the height of opaque fencing, in the first six feet of a lot, to three feet to preserve the visibility of any driveways crossing through these areas. Allowing for opaque fencing of up to 4.5 feet in height in the area from 6 feet from the property line and 25 feet from the property line (or the building line, whichever is less), will allow for residents to screen a larger area of their yard from public view while not allowing for fencing of a height that is radically different in what might be found in the front yard of an adjoining property. This maximum height of 4.5 feet would allow for all required pool fencing (as amended by these proposed regulations) to be met with something other than a chain link fence.

The proposed regulations would change the maximum height for fencing in street rear yards. Following are the limits for the maximum height for fencing that is more than 25% opaque in street rear yards:

Distance from property line

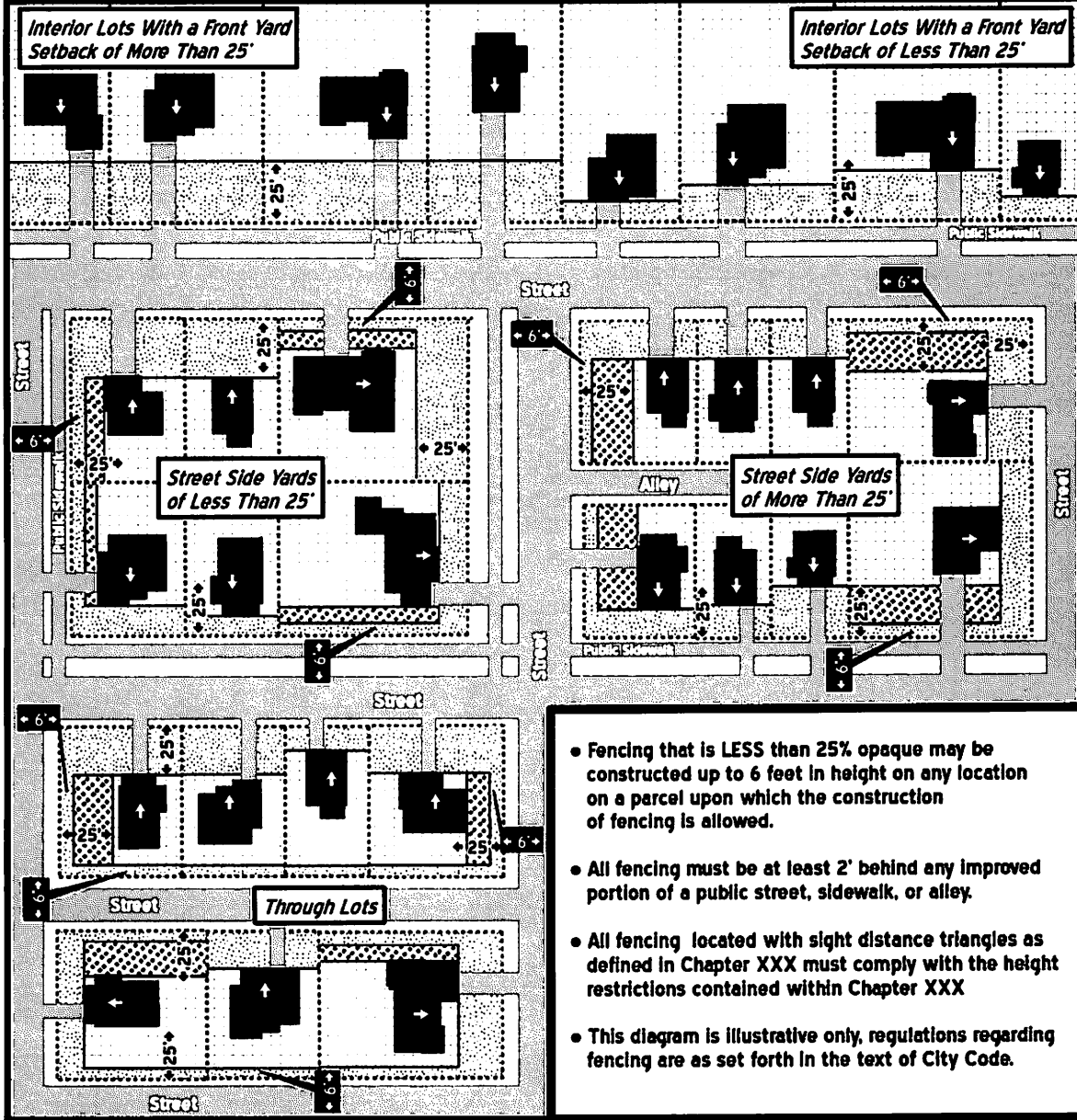
- Within 6 feet of the property line: 3 feet
- Beyond 25 from the property or the distance to the building line (whichever is less): 6 feet

These types of yards are found on lots that adjoin two non-intersecting streets. The proposed regulations continue to restrict the height of opaque fencing, in the first six feet of a lot, to three feet to preserve the visibility of any driveways crossing through these areas. Because by definition rear street yards only adjoin rear yards or rear street yards, a maximum height of six feet for opaque fence is more appropriate.







The proposed regulations would also prohibit the construction of any fence within two feet of any public sidewalk. This is being proposed in order to preserve a location to store shoveled snow, and also to allow for future maintenance on sidewalks to occur without being impacted by fencing.

In July of 2015, the City of Muscatine adopted the International Residential Code, 2015 Edition. This building code contains very detailed standards for pool fencing. The proposed regulations will bring the pool fencing standards in the Zoning Ordinance in sync with the pool fencing regulations found in the adopted residential building code.

Illustration of Fencing Regulations



Legend

-  Maximum Height of Fences that are more than 25% opaque: 3 Feet
-  Maximum Height of Fences that are more than 25% opaque: 4.5 Feet (54 Inches)
-  Maximum Height of Fences that are more than 25% opaque: 6 Feet
-  Building Footprint
-  Direction in Which the Front of the Building Faces
-  Property Line

Chapter 10-27: Off-Street Parking & Loading Regulations

In the currently adopted zoning ordinance, regulations regarding off-street parking are primarily contained within Chapter 21, however additional regulations regarding off-street parking can be found in 17 other chapters of the zoning ordinance. One of the most important goals for the zoning ordinance is contained within Policy LU.2.G of the Comprehensive Plan which states: *“make the zoning ordinance more user-friendly.”* The scattering of off-street parking regulations across 18 chapters does not make for a user-friendly zoning ordinance. For this reason, in the current draft of a new zoning ordinance, all regulations regarding off-street parking have been consolidated in a single chapter. This will make it easier for users of the zoning ordinance to find locations of all off-street parking regulations.

The draft chapter on off-street parking regulations, unlike the current zoning ordinance chapter on off-street parking regulations, makes use of tables and illustrations in order to more clearly explain regulations. This fulfills Policy LU.2.K of the Comprehensive Plan which states: *“Make use of tables and illustrations in the revised zoning ordinance to make clear the different permitted uses, parking, signage, and any form standards between various districts.”* The use of tables and illustrations also fulfills the Comprehensive Plan goal of making the Zoning Ordinance more user-friendly.

Regulations establishing the minimum number of off-street parking spaces are contained in Section 2 and Section 3. Section 2 sets the minimum number of off-street parking spaces required by specific land use type. Section 3 contains a process by which an applicant can request that the number of required off-street parking spaces be reduced based on special characteristics of the customer, client, user, employee or resident population and will reduce expected vehicle use and parking space demand for this development, as compared to off-street parking space requirements contained in Section 2.

Regulations that cause more parking spots to be constructed than actual demand warrants are harmful both to the property owner and to the community as a whole. Unnecessary parking spaces are a wasteful use of land that cause sprawl by taking up land that is already served with infrastructure and which could be put to a more beneficial use. Parking lots which are larger than necessary are detrimental to the attractiveness of the streetscape. Typically, the most disused portion of a parking lot is the portion furthest from the building; typically, this is the area nearest the street. Where there are many overbuilt parking lots, the streetscape can come to be defined by the unused portion of parking lots that line the street. Additionally, the construction of unnecessary parking also increases the amount of impervious surfaces. This makes it more difficult to manage the quantity and quality of stormwater.

The guiding principle behind the number of required off-street parking spaces is to require no more off-street parking spaces than are necessary to prevent any negative impact on surrounding properties and to do this in flexible manner which can account for any unique characteristics of a site and/or use. This guiding principle is based on directives contained

within the Comprehensive Plan and on the large volume of recent research on the impact of minimum parking space requirements.

Section 2 regulates the minimum number of required off-street parking based on the type of land use. This is the same manner in which required off-street parking is currently regulated. However, there are three significant changes being proposed: the centralization of these requirements in a single section, a reduction in the amount of parking required for most land uses, and the establishment of more land use categories.

The minimum off street parking requirements contained within Section 2 were created by conducting a review of recently published research on this topic of other communities that have recently revised their off-street parking requirements. The minimum off street parking requirements for each type of land use are based on the rough consensus that emerged from this review.

The current regulations regarding off-street parking contain 16 broadly defined land use categories. The proposed regulations contained in Section 2 are based on 34 more narrowly defined land use categories. By allowing for land uses with unique parking needs to be accounted for, the creation of more categories should help ensure that the ordinance does not require more parking than will actually be used.

In order to achieve the goal of not requiring more off street parking spaces than is necessary, Section 3 allows for the Site Plan Review Committee to reduce the number of required off street parking by up to 50% when it can be demonstrated that the use of alternative modes of transportation, including transit, bicycles, and walking, and/or special characteristics of the customer, client, user, employee or resident population will reduce expected vehicle use and parking space demand for this development, as compared to off-street parking space requirements contained in Section 2 and such a reduction in the number of required off street parking spaces will not adversely impact the surrounding area. Section 3 also deliberately notes that costs associated with providing the required off-street parking spaces shall not be used as justification for a reduction in the number of required off-street parking spaces. Section 3 helps fulfill Policy LU.2.C of the Comprehensive Plan which calls for "*...land use regulations contained within the zoning ordinance to have sufficient flexibility to preserve the unique character of individual neighborhoods.*" This section is modeled on similar regulations that have been successfully implemented in Eugene, Oregon.

Section 4 of the proposed regulations deals with handicap accessible parking lot regulation, the regulations and standards come from the Americans with Disabilities Act. Because these regulations are Federal law, they already must be complied. They are being reproduced in this chapter in order to achieve the goal of creating a single document that contains all applicable regulations regarding off-street parking.

Section 5 contains requirements for off-street loading spaces. As with regulations regarding off-street parking spaces, regulations regarding off-street loading were centralized into one section, updated to reflect a review of recently published research and of other communities that have recently revised their off-street loading space requirements, and includes a mechanism by which the Site Plan Review Committee can reduce the required number of off-street loading spaces in appropriate situations

Section 6 permits for the shared use of required parking spaces in certain situations. For example, if a parking lot is used in connection with an office building on Monday through Friday but is 90% vacant on the weekends, another development that operates only on weekends could be credited with 90% of the spaces on that lot. Similarly, if a church parking lot is generally occupied only to 50% of capacity on days other than Sunday, another development could make use of 50% of the church's spaces on those other days. Allowing this will help reduce the amount of community that is taken up with parking lots.

Current regulations do allow for shared use of required parking spaces but only in large scale retail developments. The proposed regulations expand the use of shared parking spaces to all situations where such an agreement can be shown to meet all the off-street parking needs of the uses that are proposing to share parking.

Section 8 contains improvement and maintenance standards for parking lots. Nearly all of this section is unchanged from the standards in the current regulations. The only change was to add specificity to the type of paving that is required for parking lots. Current regulations state that parking lots "shall be surfaced with asphalt or concrete for all weather parking." There have been numerous occasions where questions over the thickness, quality, and other technical features of this required paving have arisen. For this reason the proposed regulations specify a pavement structural number for both areas subject to automobile loading and those subject to truck loading. Pavement structural numbers are widely used as a design standard for both asphalt and concrete pavement. The specific pavement structural numbers were selected by surveying regulations in other communities to determine what the appropriate pavement structural number for parking lots should be

Section 9 specifies the minimum dimensions for off street parking spaces. Current regulations specify a minimum size of 9 feet by 20 feet for a total minimum size of 180 square feet. The proposed regulations set the minimum dimensions for an off-street parking space at 9.5 feet by 18 feet. The proposed change in the minimum width and length will create parking spaces that both consume less land and are more comfortable to use. Reducing the required length of a parking space from 20 feet to 18 feet will bring Muscatine into line with what is required in nearly every other community that has recently updated parking regulations. The standard of 20 feet is a relic of the early seventies when average vehicles were longer than they are today. Increasing the minimum width from 9 feet to 9.5 feet will make it easier for people, particularly the elderly, disabled, and those with small children, to enter and exit their vehicle. Such a change will also reduce the number of door dings. The proposed minimum dimensions represent a reduction of 5% in overall size of a parking space.

Section 10 contains standards specifying the minimum width of parking aisles. These standards are taken from *The Dimensions of Parking*, Fourth Edition, a joint publication of the Urban Land Institute and the National Parking Association.

Sections 11 & 12 contain landscaping standards for parking lot stormwater management. The landscaping requirements contained in this section are intended to maximize the natural infiltration of rainwater, intercept and manage stormwater runoff, and aesthetically pleasing parking lots. Policy C.7.B of the Comprehensive Plan states, "Parking lots for new developments of a determined type and size will be required to meet minimum landscaping and aesthetic enhancement requirements." Policy C.16.B of the Comprehensive Plan states, "Promote management approaches and practices that reduce runoff and pollutant loading, and help manage runoff as close to its source as possible." Section 12 is structured to simultaneously accomplish both these Comprehensive Plan goals.

The regulation of Section 12 will apply to parking lots containing 20 or more spaces. These parking lots will require contained landscaped open spaces that are at least equal in size to 10% of the total paved area of the parking. Most of this required landscaped open space will take the form of landscaped islands. Such islands will be required at the ends of each parking aisle. Intermediate islands will also be required in long rows of spaces so that no more than 15 parking spaces are directly adjacent to one another. Islands are also required as separation between any pedestrian walkways and parking spaces

The Clean Water Act gives the Environmental Protection Agency regulatory authority over stormwater that is discharged into waterways. It is expected that in the near future that the EPA's Stormwater Phase II Rule will require the City of Muscatine to obtain a permit to discharge into the Mississippi River and other bodies of water that drain to the Mississippi River. This rule establishes the National Pollutant Discharge Elimination System (NPDES) stormwater program for communities similar in size Muscatine. Phase I was focused on communities with a larger population.

Low Impact Development is a management approach and set of practices, promoted by the EPA, that can reduce runoff pollutant loading, and help a community comply with requirements of the EPA's Stormwater Phase II Rule by managing runoff as close to its source as possible. LID includes overall site design approaches and individual small-scale stormwater management practices, such as bioretention systems for disposal of stormwater coming off parking lots.

Section 11 is structured to jointly address the communities' desires for aesthetically pleasing parking lots which include landscaped open space and the forthcoming need to more proactively manage quality of stormwater discharge.

Section 11 specifies that shall be constructed in accordance with the criteria and information, including technical specifications and standards, in the most current version of the Iowa Stormwater Management Manual which is published the Iowa Department of Natural

Resources, provides design guidance, criteria, and specifications for the construction of stormwater management systems. Adopting these standards by reference will ensure that current best practices are used in managing parking lot stormwater runoff.

The following contains provisions that require the landscaping, screening, and buffering of portions of the perimeters of parking lots under certain circumstances. These regulations require that a solid 6-foot wall be placed along the perimeter of a parking lot wherever it is directly adjacent to a residentially zoned parcel. This is required in order to minimize the impact on adjacent residences from the noise, light, blown trash, etc. emanating from a parking lot. Section 12 also requires the establishment of a landscaped buffer yard between a parking lot and any public street and that one tree and 6 shrubs shall be planted in the landscaped buffer per 25 linear feet of street frontage. This requirement helps achieve the aim of Policy C.7.A of the Comprehensive Plan which states, *“Landscaping along the edges of parcels fronting a public street should be required for new developments.”*

Section 13 contains standards for trees and shrubs that are required by this proposed chapter. It details the required size of plantings both at the time they are planted and maturity. This section mandates that any required tree or shrub be maintained and replaced in timely manner if it dies off. Further, this section requires that any tree or shrub planted in a landscaped parking lot island or in landscaped buffer yard that is required by Section 10-27-12 shall be an approved species. A list of approved tree and shrub species will be created and maintained by the Parks and Recreation Department. This is required to both ensure that any plantings within a bioretention system is of a variety will thrive in the wet growing conditions that they create, to ensure that trees and shrubs planted near road and sidewalks will not be detrimental to their operation and maintenance, and fulfill Policy C.7.D of the Comprehensive Plan which states, *“In parking lots and near streets the planting of certain identified desirable varieties of trees is to be encouraged and the planting of certain identified undesirable varieties of trees will discourage and prohibited on municipal property, including right-of-ways.”*

Section 14 contains regulations regarding parking for bicycles. The proposed regulations, for the first time, require the providing of bike parking facilities. The number of bike parking racks will be determined by the number of vehicular parking spaces that are required. These regulations also cover the location, layout, and design of bike parking facilities. These regulations are based on the best practices found in other communities.

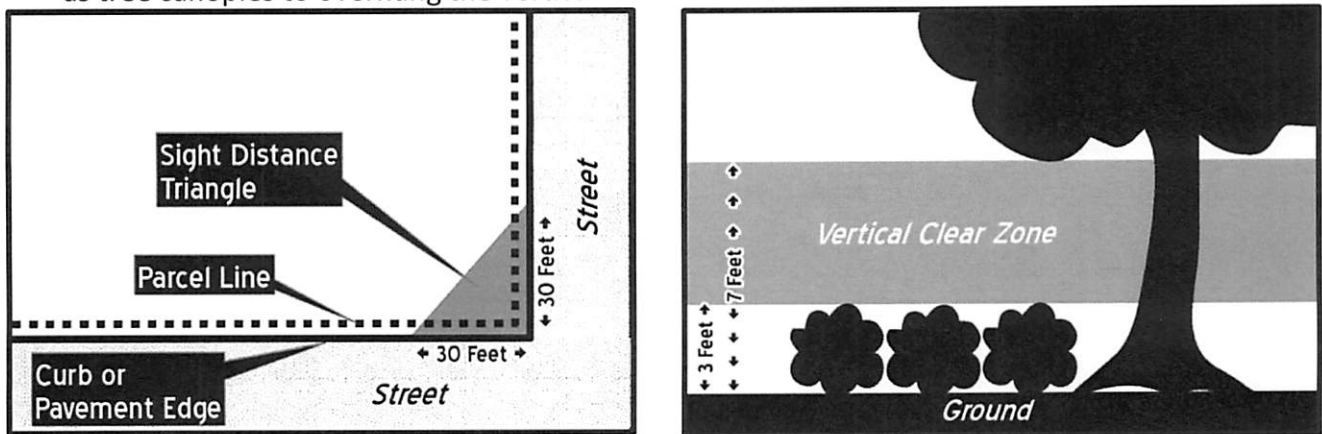
Bicycle parking is being required for the first time in order to make it easier for community members to travel to their destinations by non-motorized means, a major goal of the Comprehensive Plan. This requirement also furthers the ongoing effort to improve community well-being. Further the requiring of bike parking facilities is the logical follow up to the large investment in bike facilities, including trails, that has been made by the community.

Chapter 10-28: Sight Triangle Regulations

This chapter covers sight triangle regulations. Sight triangles are a triangular area at an intersection, formed by the two roads and a third line, which is to be kept clear of obstructions of specified height, such as hedges so that people in one road can see cars approaching on the other. The majority of these regulations remain unchanged from what is contained in the current zoning ordinance. However, two major changes are being proposed, one relating to how sight triangles are measured, and a change to the required vertical clear zone. These regulations have also been reformatted, illustrated, and placed in their own chapter in order to make them more user friendly.

Current regulations do not specify where exactly the required 30 feet from an intersection, that comprise a sight triangle, should be measured from and this has caused confusion. The proposed regulations would specify that this is to be measured from the curb or edge of the pavement.

Regulations relating to the vertical clear zone, the area within a sight triangle that must be kept clear of any obstructions, are being proposed for updating. Currently nothing higher than 3 feet is allowed within a sight triangle. The revised regulations prohibit obstructions between 3 and 7 feet. This widely used standard allows vehicles the necessary visibility, but allows for things such as tree canopies to overhang the vertical clear zone.



Chapter 10-29: Keeping of Animals in Residential Districts

This proposed zoning ordinance chapter would regulate the keeping of animals in residentially zoned districts. The current zoning ordinance spreads regulations covering animals in residential district across a number of chapters. This proposal would place all these regulations in a single chapter. This is being proposed in order to make these regulations easier to locate and use.

The biggest difference between the current zoning ordinance and what is being proposed is how the keeping of farm animals of 30 pounds in size on residentially zoned parcels between two and twenty acres would be regulated. The current zoning ordinance does not contain clear and direct

language regulating the keeping of farm animals of 30 pounds in size on residential zoned parcels between two and twenty acres in size. Currently an interpretation of the definition of “agricultural activities” is relied on to provide regulatory guidance in these situations. This is not an ideal manner in which to deal with these situations, as it is very difficult for someone to read the current zoning ordinance, and come away with a clear understanding of the rules for keeping of farm animals of 30 pounds in size on residential zoned parcels between two and twenty acres in size, without contacting City staff. The proposed chapter will fix this by adding clear and easily understandable regulations regarding these situations.

The proposed chapter would regulate the keeping of farm animals of 30 pounds in size on residential zoned parcels between two and twenty acres, in a manner that is based on both the size of the animal and size of the parcel in question. This approach is a common and well tested method used by a large number of communities across the nation. It is based on the idea that the appropriateness of keeping certain types of animals at certain densities in residential areas is directly dependent on the size of the parcel on which the animals are being kept and the size of the animal.

The proposed regulations define and regulate animals based on following four categories of animals.

- **Domestic Companion Animal:** A domestic animal customarily kept, and cared for, by the occupants of a dwelling for personal pleasure, and which are not raised for food or fur. Typically, this includes dogs, cats, birds and other small mammals and reptiles, but not fowl, herd animals, goats, horses, other farm type animals, or types of animals prohibited elsewhere in City Code.
- **Small Farm Type Animal:** Small sized animals or fowl normally raised on a farm, or as part of commercial agricultural or animal husbandry operation, or normally used for purposes related to agricultural production. Includes, but not limited to, chickens, guinea hens, geese, ducks, turkeys, pigeons, mink, and other animals or fowl of similar size and type, whose mature weight is less than 30 pounds. Young or miniature large animals are not included in this definition and are considered large animals. The category does not include domestic companion animals.
- **Medium Farm Type Animal:** Medium sized animals or fowl normally raised on a farm, or as part of commercial agricultural or animal husbandry operation, or normally used for purposes related to agricultural production. Includes, but not limited to sheep, goats, or similar medium sized animals whose mature weight is between 30 and 500 pounds. Does not include domestic companion animals.
- **Large Farm Type Animal:** Includes, but not limited to, horses, donkeys, mules, llamas, bovines, bison, camels, ostriches, emu, and other animals or livestock of similar size and type, whose mature weight exceeds 500 pounds.

Where and how many of these types of animals would be allowed to be kept in a residential zoning district is dependent on the size of the subject parcels. For parcels less than two acres in size only the keeping of domestic companion animals of a type and in a manner that is in

compliance with all relevant sections of City Code would be allowed. The keeping of swine, roosters, peacocks, turkey gobblers or guinea fowl is prohibited on all parcels of less than 20 acres. For parcels between two and twenty acres, animals would be permitted at the following number and density:

- **Domestic Companion Animal:** permitted in accordance with all other relevant sections of City Code.
- **Small farm type animals:** Maximum of four small farm type animals per acre.
- **Medium farm type animals:** Maximum of two medium farm type animals per acre.
- **Large farm type animals:** Maximum of one large farm type animal per acre.

There are very few residentially zoned parcels that are twenty acres or more in size. Typically, these parcels are being used for agricultural purposes or otherwise undeveloped and are zoned residential in anticipation of future development. Because such parcels are rural/agricultural in nature, it is logical that the regulations governing the keeping of animals on such parcels be similar to the regulations that apply to keeping animals in the agriculture zoning district. This is how these situations are regulated in the current zoning ordinance. As these parcels are subdivided and developed, more stringent regulations regarding the keeping of animals will automatically take effect.

The proposed regulations also cover accessory buildings relating to the keeping of farm type animals. The key components of how these types of accessory structures are regulated are:

- All pens, stalls, quarters, or any other structure related to the keeping of animals as well as any grazing areas shall be maintained in a sanitary manner free from noxious odor.
- Any accessory structure associated with the keeping of less than 60 small, 20 medium, or less than 10 large type farm animals, other than swine, shall be set back 60 feet from the nearest parcel line.
- Any accessory structure associated with the keeping of 60 or more small type farm animals, 20 or more medium type farm animals, or 10 or more large type farm animals, or any number of swine shall maintain a 200 feet setback from the nearest parcel line.

On parcels of at least 20 or more acres, domestic companion animal and farm type animals are permitted without any additional restrictions on the number and density of animals. However, kennels or any other forms of boarding animals for compensation, feed lots, livestock confinement areas, or confined animal feeding operations are prohibited. For residentially zoned parcels of all sizes kennels or any other forms of boarding animals for compensation are prohibited, as are services offered in exchange for compensation that are related to or make use of farm type animals located onsite.

Bee keeping has become a more popular hobby in recent years. The current zoning ordinance does not address bee keeping at all. For this reason, the proposed chapter contains regulations on beekeeping that are based on a survey of best practices in other communities.

The current zoning ordinance does not allow for the keeping of any farm type animals, including chickens, on residentially zoned parcels smaller than two acres, the proposed chapter would maintain this policy. The proposed chapter recommends the continuation of this policy. Changing this policy would not directly or indirectly implement any of the Comprehensive Plans 82 goals. Additionally, in April of 2016, City Council reviewed and declined to implement a pilot program that would have allowed for the keeping of chickens on residential parcels of less than two acres in size.

Chapter 10-30: Wireless Technology Siting Ordinance

There are significant changes to how wireless technology siting (cell towers) are regulated. The four most significant areas of change are those needed to comply with recent federal and state mandates; creating a simpler and more consistent height limit across all zoning districts; the methods by which collocation of multiple carriers on a single tower is encouraged; and the addition of screening and landscaping standards.

The long running trend of both the Federal and State governments chipping away at the authority of local governments to regulate wireless communication facilities has continued in recent years. In 2012, Congress adopted the Middle Class Tax Relief and Job Creation Act, a statute best known for extending tax cuts and unemployment benefits. However, a measure relating to the siting of cell tower, Section 6409(a), which promotes wireless siting by further restricting a local government's ability to deny certain wireless applications that seek to modify existing wireless facilities, was attached to it. This section states that a state or local government may not deny, and shall approve, any *eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station*. On January 8, 2015, the Federal Communications Commission issued final regulations that implement Section 6409(a). The proposed draft language regulating wireless communication facilities would bring City Code into compliance with these regulations.

In June of 2015, the Governor signed House File 655 into law. This bill further regulates and restricts how local governments can regulate wireless communication facilities. This codified the FCC regulations relating to Section 6409(a) into state law, and also contained additional restrictions and requirements on how local governments can regulate wireless communication facilities, including:

- Requiring local governments to act on new tower applications within 150 days of receiving a complete application for construction
- Requiring local governments to act within 90 days of receiving a complete application for “initial placement or installation of transmission equipment on wireless support structures, a modification of an existing tower or existing base station that constitutes a substantial change, or a request for construction or placement of transmission equipment that does not constitute an eligible facilities request.

- It also contained a list of 13 things that a local government cannot do when presented an application for a wireless facility:
 - Require an applicant to submit information about, or evaluate an applicant's business decisions with respect to, the applicant's designed service, customer demand for service, or quality of the applicant's service to or from a particular area or site a. Evaluate an application based on the availability of other potential locations for the placement or construction of a tower or transmission equipment. b. Require the applicant to establish other options for collocation instead of the construction of a new tower or modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or existing base station. c. Notwithstanding paragraph "b" , an authority may require an applicant applying for the construction of a new tower to state in its application that it conducted an analysis of available collocation opportunities on existing towers or existing base stations within the same search ring defined by the applicant solely for the purpose of confirming that the applicant undertook such analysis.
 - Dictate the type of transmission equipment or technology to be used by the applicant or discriminate between different types of infrastructure or technology.
 - a. Require the removal of existing towers, base stations, or transmission equipment, wherever located, as a condition to approval of an application. b. Notwithstanding paragraph "a" , the authority may adopt reasonable rules regarding removal of abandoned towers or transmission equipment.
 - Impose environmental testing, sampling, or monitoring requirements, or other compliance measures, for radio frequency emissions from transmission equipment that are categorically excluded under the federal communications commission's rules for radio frequency emissions pursuant to 47 C.F.R. §1.1307(b)(1).
 - Establish or enforce regulations or procedures for radio frequency signal strength or the adequacy of service quality.
 - Reject an application, in whole or in part, based on perceived or alleged environmental effects of radio frequency emissions, as provided in 47 U.S.C. §332(c)(7)(B)(iv).
 - Prohibit the placement of emergency power systems that comply with federal and state environmental requirements.
 - Charge an application fee, consulting fee, or other fee associated with the submission, review, processing, or approval of an application that is not required for similar types of commercial development within the authority's jurisdiction. Fees imposed by an authority or by a third-party entity providing review or technical consultation to the authority shall be based on actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. In no case shall total charges and fees exceed five

hundred dollars for an eligible facilities request or three thousand dollars for an application for a new tower, for the initial placement or installation of transmission equipment on a wireless support structure, for a modification of an existing tower or existing base station that constitutes a substantial change to an existing tower or base station, or any other application to construct or place transmission equipment that does not constitute an eligible facilities request. An authority or any third-party entity shall not include within its charges any travel expenses incurred in the review of an application, and an applicant shall not be required to pay or reimburse an authority for consultant or other third-party fees based on a contingency or result-based arrangement.

- Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other type of financial surety, to ensure that abandoned or unused towers or transmission equipment can be removed unless the authority imposes similar requirements on other applicants for other types of commercial development or land uses. If surety requirements are imposed, the requirements must be competitively neutral, nondiscriminatory, reasonable in amount, and commensurate with the historical record for local facilities and structures that are abandoned.
- Condition the approval of an application on the applicant's agreement to provide space on or near the tower, base station, or wireless support structure for authority or local governmental or nongovernmental services at less than the market rate for such space or to provide other services via the structure or facilities at less than the market rate for such services.
- Limit the duration of the approval of an application, except that construction of the approved structure or facilities shall be commenced within two years of final approval, including the disposition of any appeals, and diligently pursued to completion.
- Discriminate on the basis of the ownership, including ownership by the authority, of any property, structure, or tower when promulgating rules or procedures for siting wireless facilities or for evaluating applications.

The proposed draft chapter would bring City Code into compliance with House File 655. The proposed draft chapter includes a significant change in the way the maximum height of communication towers is regulated. Currently anyone proposing a tower that exceeds the maximum height of the zoning district must obtain permission from City Council per Section 10-20-1(B) of City Code. Aside from the C-2 District no zoning district has a maximum height limit of 75', nearly all new communication towers are taller than 75'. Except for the two industrial zoning districts the construction a communication tower requires a conditional use permit. This means that a proposal for a new communication tower most likely needs to be approved by both City Council and the Zoning Board of Adjustment.

In order to better ensure compliance with state mandated timeline of acting on an application for a new tower within 150 days, and to streamline the process, the proposed draft language

would allow communication towers to be constructed up to 150' with an approved conditional use permit, without additional City Council authorization, towers taller than 150' would still require separate Council approval. Nearly all existing communication towers within the City of Muscatine are between 75' and 150' height. Building towers to these heights is an integral part of this type of land use, and not a special exception that should require an additional approval process.

Collocation is when multiple carriers install equipment on the same communication tower. It is in the best interest of the City of Muscatine to encourage collocation. One of the most effective ways to less the negative impacts of communication towers is to reduce the numbers through collocation. However, House File 655 prohibits the City from requiring a carrier to collocate on another entities tower, or to mandate that a tower owner allow another carrier to collocate on its tower. In accordance with state law the draft chapter does no mandate collocation, rather it encourages it by mandating towers constructed over 75' in height be design to accommodate collocation, and the chapter streamlines the process for approving the taller type of towers needed to accommodate collocation of multiple wireless communication on the same tower.

The proposed draft chapter would add landscaping and screening requirements for support facilities and tower bases. This is in line with various Comprehensive Plan goals that call for improvements to community appearance and increased landscaping. Lessening the visual impact of facilities and tower bases will help communication towers be more compatible with surrounding land uses.

RECOMMENDATION/RATIONALE

Prior to City Council action on the proposed ordinance, a public hearing is required. It is recommended that the attached resolution setting a public hearing, for March 2nd, on the proposed ordinance revising the Zoning Ordinance.

BACKUP INFORMATION:

- Resolution Setting a Public Hearing
- Draft of Revised Zoning Ordinance

Title 10 – Zoning

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R-6 Residential District	9
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C-2 Central Commercial District	12
C-3 Planned Commercial District	13
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ORDINANCE NO.

**AN ORDINANCE AMENDING TITLE 10 OF THE CITY CODE,
ZONING ORDINANCE**

WHEREAS, The current zoning ordinance, contained in Title 10 of City Code, largely dates to early 1970's, and is structured to implement the vision contained in the 1968 Comprehensive Plan. In September of 2013 a new Comprehensive Plan was adopted. Rewriting the zoning ordinance is the most important step in implementing the vision of the new Comprehensive Plan, with the new Comprehensive Plan becoming the basis of a revised Zoning Ordinance; and

WHEREAS, Because of the scope of rewriting an entire zoning ordinance, the project will be broken into several pieces, the first set of proposed changes, will deal with chapters regulating: parking, garage and accessory buildings, fences, cell towers, animals in residential areas, and sight triangle regulations. In addition to these major proposed changes, there is also formatting changes and minor updating being proposed for the rest of Title 10.; and

WHEREAS, the Planning and Zoning Commission on February 14, 2017 voted to recommend approval the revises Title 10, Zoning Ordinance. and;

WHEREAS, a public hearing, on March 2, 2017, was conducted by the City Council of Muscatine prior to the adoption this ordinance.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF MUSCATINE, IOWA:**

SECTION 1. The currently adopted versions of Title Ten of the City Code are here by deleted and Exhibit A as attached hereby to is adopted in lieu thereof.

SECTION 2. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

SECTION 4. This ordinance shall be in effect from and after the passage and approval and publication of this ordinance, as provided by law

PASSED, APPROVED AND ADOPTED this 2nd day of March, 2017.

Attest

Gregg Mandsager
City Clerk

**By the City Council of the City of
Muscatine, Iowa**

First Reading:
Second Reading:
Third Reading:
Publication:

Diana L. Broderson, Mayor