

Revised Zoning Code Identified Issues List – Year 1

March 28, 2014

At its March 17, 2014 special meeting, the Plan Commission discussed and prioritized the list of Zoning Code issues outlined in a memo from Planning Division staff and the Zoning Administrator dated March 12, 2014. The following list reflects the prioritization of those previously identified issues.

- **For continuity, the number next to the issue is the same number the issue had in the March 12 memo.**
 - **The gaps in numbering in the following sections is the result of the items stricken by the Plan Commission from the March 12 memo (which were previously shaded red).**
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1. CORRECTIONS AND SIMPLE ISSUES

This section includes code changes that staff believes are relatively simple (and with many being possible “consent agenda” items) at Plan Commission meetings in the near future. While most are very quick changes, each would still require formal text amendments. With the consent of the Plan Commission, staff could address these items over the next six months at regular Plan Commission meetings.

1.1 Sec. 28.031(1) and 28.071 - Allow setback averaging in downtown residential districts

Issue: Setback averaging is only allowed in the residential districts, and should also be allowed in DR1 and DR2 (downtown residential districts), which are similar to other residential districts.

Source: Zoning Staff

1.2 Sec. 28.031(3) - Attached garage setback and facade percentage rule

Issue: This regulation limits garage wall presence on single-family homes, to result in less-dominant garage wall facade appearance from any street. The intent of this amendment would be to clarify the amount of the front facade that can be occupied by the width of space used as an attached garage, versus the width of space occupied by the garage door itself.

Source: Zoning Staff, Customers

1.3 Sec. 28.037(2), 28.078, 28.084(3) - Revise SR-C3, DR1, and TE rear yard standard

Issue: The existing language omits the “lesser of” clause which is present in most districts, where the rear yard requirement is the “lesser of X feet or Y% of the lot depth.” Thus, in these districts, the rear yard setback is artificially increased on deeper lots. This was not intended and can easily be changed.

Source: Zoning Staff

1.4 Sec. 28.061(1), 28.151 - Resolve inconsistency on whether Farmers Markets are allowed in the LMX district

Issue: There is a conflict between use table, where farmers’ markets are shown as a conditional use in the LMX District, and the supplemental regulations section where the LMX District is not listed under “farmers’ markets”.

Source: Zoning Staff

1.5 Sec. 28.084(3) p. 93 - Remove/reduce side yards in the TE district

Issue: Staff believe that the 5-6’ side yard setback is not needed, where property is not adjacent to a residential district. A side yard setback from adjacent residential districts is already required.

Source: Zoning/Planning Staff

1.6 Sec. 28.085(3)(a), 28.088(3)(a) - Clarify Building placement at corner lots in Suburban Employment – Industrial Limited

Issue: The language is unclear, and only appears to apply when a building is placed within 30' of the corner. The unintended effect is discouragement of building placement near the corner.

Source: *Zoning/Planning Staff*

1.7 Sec. 28.132(2)- One story projections for garages

Issue: The projection of a one-story attached garage into the required rear yard was allowed in the old zoning code, but this provision was not carried forward into the new code. This is most pertinent to allow for flexibility on corner lots.

Source: *"Future" Discussion Item Raised by Plan Commission*

1.8 Sec. 28.141 - Trigger for when bike parking is to be brought up to compliance

Issue: Many places that provide bike parking do not meet current code requirements for rack design and bike parking space dimensions. The result is an inconsistent pattern of bike parking facilities, and there is no clear rule as to when older bike parking facilities must comply with code. Examples to be provided.

Source: *Zoning Staff*

1.9 28.151, Page 207 - Supplemental regulations, food and beverage uses

Issue: Supplemental regulations apply to EC, IL, IG, but not any specific use in Employment districts. Need a simple revision to include a "Y" in the use chart for specific types of uses, because *food and beverage uses* is a category, not a specific use.

Source: *Zoning Staff*

1.10 Sec. 28.183 - Dormant Conditional Use expiration

Issue: Under the old zoning code, a Conditional Use that sat dormant for 6 months was considered expired, but there is no expiration date in new code.

Source: *Zoning/Planning Staff*

1.11 28.185(9)(a), Page 244 - Demolition approval

Issue: Under *scope of approval*, add words approval/action after the word Commission. Clarifies the action is a Plan Commission action.

Source: *Zoning Staff*

1.12 Sec. 28.186 - Site plan review shelf life (how long is it allowed to be sitting incomplete) amendment in works

Issue: Site plans sometimes sit for years in a review status, due to non-response from applicants. Reviews are not completed in a timely fashion, codes change during review, and the status of project is unclear. Clear language establishing a timeline where projects are assumed rejected or withdrawn if they sit dormant for a certain amount of time is recommended.

Source: *Zoning Staff*

1.13 Sec. 28.186 - Site plan implementation schedule

Issue: Some projects do not implement approved site plan within a reasonable timeframe. Prosecuting City Attorneys would appreciate clear language establishing a date by which approved site plans must be implemented.

Source: *Zoning Staff, City Attorney's Office*

1.14 Sec. 28.206 – Revisit variance application fee

Issue: The fee for review of zoning variances has long been \$300.00. Costs associated with zoning variances have increased over the years, but fee has not been re-examined.

Source: Zoning Staff

1.15 Sec. 28.211 p. 271. - Revise “secondhand goods sales” definition to broaden applicability

Issue: Definition is limited to consignment and non-profit operators. It currently excludes for-profit private operations that sell secondhand items, non-consignment.

Source: Zoning Staff

1.16 Sec. 28.211 - Create “Floor area” definition, specifically for ADU’s

Issue: Existing FAR definitions require measurement from exterior walls. Since these units are limited to 700 sq. ft., high R-value insulation (batten-style) negatively impacts available dwelling space size, which penalizes these small units. Also, when ADU’s are incorporated as additions to existing buildings, exterior walls of buildings often is a shared wall with other space in the structure. Staff suggest a revised definition to measure only conditioned space from interior walls.

Source: Zoning Staff, ADU project designers

1.17 Various sections - Allow for split duplexes

Issue: Code allows two-family twin homes in various districts, but does not easily lead to split-lot duplexes, which are common for a fee-simple ownership structure. The only reasonable way to have separate ownership is to condo.

Source: Zoning/Planning Staff

1.18 Various Sections - Caretakers dwelling, not clear that it should be part of the principal building on-site, or a detached building

Issue: Intent of the section is to allow an incidental dwelling space, associated or part of the broader non-residential use. Staff has been approached by customers that desire to build typical detached single-family-style homes under this provision, which seems inconsistent with intent.

Source: Zoning Staff

1.19 All Approvals - Clarify how appeals impact project timeline

Issue: For Plan Commission approved projects that are appealed, code does not clearly state the approval date is established after appeal has been exhausted.

Source: Zoning/Planning Staff

1.20 Incorrect, missing or redundant code references

Page 93 - In chart, maximum height, missing (c)

Page 117 - under Sec 28.097(8), 28.096(5) should read 28.097(6).

Page 123 - under Sec 28.098(6), 28.097(5) should read 28.098(5).

Page 215-216 - supplemental regulations for *Schools, public or private*, bullet (c) not needed.

Source: Zoning Staff

2. MORE COMPLEX ISSUES

This section includes code changes that will require some amount of staff research and analysis, as well as Plan Commission discussion.

HIGH PRIORITY

2.2 Sec. 28.032(1), Page 11 - “Community event” or temporary outdoor event” in residential zoning districts, “special event” in residential districts, on non-residential uses

Issue: Events such as outdoor festivals associated with a school or church are currently not allowable.

Source: Zoning Staff, Plan Commission, Ald. Denise DeMarb

2.5 Sec. 28.047-28.051 – Examine the adequacy of the range of lot area requirements (allowable densities) in residential varied and urban districts (e.g. TR-V2, TR-U1)

Issue: Currently, the allowable densities are approximately 20 units per acre in TR-V1 and TR-V2, 40 units per acre in TR-U1, and 80 units per acre in TR-U2. There may be a need to revise or create additional districts to better align the array of residential densities recommended in adopted plans, such as 25 or 60 units per acre, for example.

Source: Zoning/Planning Staff

2.8 Sec. 28.072, Page 73 - Create new, more limited district with similar bulk requirements as UMX

Issue: In some parts of the downtown near or within residential areas, it might be appropriate to allow for certain commercial uses that are generally complementary to residential uses, while not opening up to the full list of commercial uses allowable in the UMX District. One option would be to reexamine the UOR (Urban Office Residential) District and slightly broaden the allowable uses.

Source: Plan Commissioner Brad Cantrell

Note: 3/17/14 - PC determined that this should be a higher priority than was recommended by staff

2.10 Sec. 28.064, 28.065 - Side yard transition to adjacent residential in TSS and NMX

Issue: Currently, the code requires a rear yard height transition to residential districts, but no similar transition requirement exists for the side yard. This is usually not a problem, but can be problematic on corner properties where the chosen side yard is adjacent to a residential district.

Source: Zoning Staff

2.11 Sec. 28.067, 28.068, and Various Employment Districts - Clarify standards for parking, building placement, and front yard setback in CC-T, CC, and Employment Districts when there are multiple buildings on a site

Issue: Each of these districts has standards which ensure that buildings are oriented to the street, with varying allowances for surface parking to be located between the building and the street. For sites with multiple buildings, these requirements may not make sense if they are applied to each building on the site.

Source: Zoning/Planning Staff

2.25 Sec. 28.211 - R4A to TR-V1 family definition change

Issue: This issue only relates to properties in the Vilas, Marquette and Regent neighborhoods, formerly zoned R4A. The former R4A zoning district established a maximum occupancy of no more than two unrelated individuals in a rental unit. This was established to limit the density in areas near the university, and make it less attractive to establish non-owner occupied units. The new zoning code generally split former R4A zoned property into TR-C4 and TR-V1, generally to ensure no nonconforming use was created. Buildings with more than three units were zoned TR-V1, Those properties in TR-C4 maintained the lower

occupancy limitation, where those properties moved into TR-V1 allows up to five unrelated individuals to occupy a dwelling unit. This increase to occupancy was not intentional in former R4A areas.
Source: Regent Neighborhood Association, Ald. Shiva Bidar-Sielaff

2.27 Sec. 28.211, Various Sections - Create definition for “primary abutting street” and clarify relationship to required yards. Related issue on defining front yard on corner lots

Issue: Primary abutting street is not defined, could be any street on a corner lot.
Source: Zoning/Planning Staff, Plan Commission

2.28 Sec. 28.211 – Examine definition of Rear Lot Line and consider changes for the establishment of the rear yard setback on irregularly shaped lots

Issue: The rear lot line and rear yard setback as measured on irregular lots results in a buildable area on the lot that is not consistent with that would be allowable on a rectangular lot of a similar size.
Source: Alder Zellers
Note: 3/17/14 - PC grouped this item with others related to yards on the high priority list

2.29 Sec. 28.211 - “Rear yard” on a full/four sided block development

Issue: Rear yard requirements may need to be relaxed in cases where a development has frontage on four streets, since an orientation to and proximity to the street is desired, in most cases.
Source: Zoning/Planning Staff, Plan Commission
Note: 3/17/14 - PC grouped this item with others related to yards on the high priority list

2.30 Sec. 28.211 - Yards on three-sided corner lots (corner lot)

Issue: The Zoning code allows a lot with multiple street frontages to select a “front” lot line, which by definition then selects the “rear” lot line as opposite the selected front lot line. Some specific examples encountered over year one should be examined, for clarification about how these definitions are being applied, or if the definitions/regulations should be modified.
Source: Zoning/Planning staff, Ald. Ledell Zellers, Plan Commission
Note: 3/17/14 - PC grouped this item with others related to yards on the high priority list

2.31 Sec. 28.151 - Yard setback reductions for Residential building complexes

Issue: The supplemental regulations for residential building complex allows for the reduction of required yards, where equivalent open spaces are being provided. Some specific projects that have come forward appear to request reductions in setbacks which create open spaces, but it is questionable if these are indeed quality spaces. Examine language to clarify intent.
Source: Ald. Ledell Zellers
Note: 3/17/14 - PC grouped this item with others related to yards on the high priority list

MEDIUM PRIORITY

2.1 Sec. 28.032(1), Page 11 - Stand-alone parking lots in residential zones

Issue: Current code does not allow for stand-alone parking lots in residential districts. There have been recent approvals for these types of parking lots under the old code, as recent as late 2012.
Source: Zoning/Planning Staff

- 2.9 Sec. 28.064(3), 28.065(3), Others Sections Possible – Consider allowing underground parking in rear yard**
Issue: In non-residential districts, allowing for underground parking to be constructed in the rear yard setback, completely below grade, may be practical, particularly when there is otherwise inadequate space for an efficient underground parking area. One consideration is that this may limit the type of landscaping that could be planted in this area.
Source: Planning and Zoning Staff, Customers
- 2.13 Sec. 28.082 - Transportation Demand Management Plans**
Issue: Previous discussion about listing specific requirements and providing examples for TDM Plans in Employment Districts
Source: "Future" Discussion Item Raised by Plan Commission
Note: 3/17/14 - PC determined that this should be a higher priority than was recommended by staff
- 2.14 Sec. 28.082, 28.093 - Quarrying: Not identified as an allowed use in any part of the code**
Issue: Quarrying not listed as a permitted or Conditional Use in the code in any district. May need to consider including it as a conditional use in industrial or agricultural districts.
Source: Planning Staff
- 2.23 Sec. 28.185(6) - Demolition exemption for single-family homes (fire damage) omitted**
Issue: Old code had a provision to allow demolition exemption for reconstruction of a fire-damaged single family home when replacement structure was of same bulk as damaged home. This exemption was inadvertently omitted in new code. The Plan Commission may want to revisit the policy and simply exclude demolition permits for any single family home unless the home is of some historical value or eligible for the National Register of Historic Places.
Source: Zoning/Building Inspection/Planning Staff
- 2.24 Sec. 28.186 - Site compliance triggers**
Issue: New code has removed the old-code requirement to bring sites up to compliance with a change of use. There have been fewer site plans brought up to compliance under the new code based on the revised triggers.
Source: Zoning Staff
- 2.26 Sec. 28.211, Various Sections - Clarify the Boarding/lodging/rooming house definitions and use lists**
Issue: Current code does not clearly define these different types of living arrangements.
Source: Zoning Staff
- 2.32 Sec. 28.042, others - Side yard requirements in Traditional Residential Consistent districts**
Issue: Currently, the TR-C1, TR-C2, TR-C3, and TR-C4 districts all have differing side yard requirements. In many cases, the TR-C3 District, which allows for lots as small as 3,000 square feet, has been sought and utilized for subdivisions with much larger lots, primarily due to the fact that the required side yard is only 5 feet. It may be worth reexamining these side yard requirements and to consider making them more consistent.
Source: Planning Staff, Customers

2.33 Various Sections – Management plans for cooperative housing agriculture operations of a certain size, and other uses

Issue: There was previous discussion regarding specification of management plan components for certain uses, such as cooperative housing, urban agricultural operations, etc. Could include other uses requiring management plans.

Source: *“Future” Discussion Item Raised by Plan Commission*

LOW PRIORITY

2.4 Sec. 28.042-28.051 - Nonresidential buildings in TR districts lot coverage probably too low

Issue: The allowed percentage of the amount of lot coverage for these districts is fairly low for non-residential buildings such as schools, churches, etc. Often, properties in these zoning districts tend to have larger buildings with parking lots on relatively small lots. The current lot coverage requirement has shown to be problematic.

Source: *Zoning Staff*

2.6 Sec. 28.060(2)(d), Page 42 - Ground floor window placement height (sill) in Commercial/Mixed-Use districts

Issue: 50% of the ground floor window openings must have a sill height of three feet or less. This can be challenging to meet, especially for sloped sites.

Source: *Zoning/Planning Staff*

2.12 Sec. 28.076, Page 81 - Consider clarifications to modify rear yard setback in UMX when not adjacent to residential uses

Issue: The UMX rear yard requirement of 10 feet may not be necessary if the property abuts other commercial districts.

Source: *Zoning/Planning Staff*

2.15 Sec. 28.138, Page 167-169 - Concern about “walling off” lakefront views

Issue: Previous discussion about the potential for different side yard requirements for lakefront development in order to preserve lake views from street.

Source: *“Future” Discussion Item Raised by Plan Commission*

Note: 3/17/14 – PC determined that this should remain on the list of items for further study.

2.16 Sec. Sec. 28.141(4) - Moped Parking Requirements

Issue: Previous discussion regarding the integration of minimum and maximum standards for moped parking in certain districts on and near campus.

Source: *“Future” Discussion Item Raised by Plan Commission*

2.20 Sec. 28.145 & Various Residential Sections - Clarify standards regarding accessory commercial parking lots in split-zoning (residential, particularly)

Issue: Should the code allow accessory parking lot for commercial uses in commercial zones to extend into lands that are residentially zoned?

Source: *Zoning/Planning Staff*

3. NEW INITIATIVES / LONGER-TERM POLICY DISCUSSIONS

This section includes wider-ranging policy discussions that will likely involve significant staff research and analysis and Plan Commission discussion, including possible special meetings.

HIGH PRIORITY

3.5 Sec. 28.063-28.065 - Consider revisions to commercial/mixed-use district hierarchy including new districts, statement of purposes, maximum height requirements, density

Issue: The NMX and TSS Districts are currently very similar, with a few differences including usable open space and conditional use thresholds. Both districts allow for a height of three stories as a permitted use and have no absolute height limitation, when additional height is approved as a conditional use. Staff believes that it may be beneficial to reexamine and refine these districts to provide more predictability. Staff recognizes that many details need to be taken into account to carefully and appropriately revise these districts.

Source: Zoning/Planning Staff

Note: Items 3.5, 3.6, 3.7, and 3.8 are closely related and will be considered together

3.6 Sec. 28.064(3)(c), Page 55 and Various Sections - Consider revisions to the minimum lot area requirement for stand-alone residential buildings in commercial/mixed use and employment districts

Issue: For stand-alone residential buildings in mixed-use districts, the code currently requires 2,000 sq. ft. per dwelling unit (21 units per acre), which is usually far too low to support the 3-story buildings in an urban setting that are desired. Thus, the code has a strong incentive for buildings in these areas to be mixed-use buildings, even while commercial spaces nearby might be vacant or underutilized. In many cases, staff believes that stand-alone residential buildings can be a great contribution to mixed-use districts/corridors, and provide a better way to congregate commercial uses to particular activity nodes. A revision to the minimum lot area requirement could begin to allow for this.

Source: Zoning/Planning Staff

3.7 Sec. 28.064(3), Page 53 and Various Sections - Create lot area requirements for mixed-use buildings in commercial/mixed-use districts

Issue: There are currently no minimum lot area requirements (lot area per dwelling unit) in commercial/mixed-use and employment districts. This may be worth considering in some of the districts, in order to have an effective maximum density. Other parameters such as height limitations and usable open space requirements may already address this issue to some degree.

Source: Zoning/Planning Staff

3.8 Sec. 28.06X (Potential New Section) – Create a large-scale mixed-use district for use outside of downtown

Issue: There are several places in the City along intensely developed or redeveloping corridors and mixed-use nodes that are well-served by transit where a high-intensity mixed-use district similar to the UMX District may be appropriate. Staff believes that it would be beneficial to create a new mixed-use district that could be requested by property owners in conjunction with development proposals in these areas.

Source: Zoning/Planning Staff

3.12 Various Sections - Food carts on private property

Issue: The placement of food carts on private property is greatly restricted in the current zoning code. This reflects a long-standing policy related to the appropriateness of food carts placed on any nonresidential property and the impacts of food carts on brick-and-mortar restaurants. There are considerations to revisit policy which could result in changes to food cart regulations in the Zoning code.

Source: Office of Business Resources and Street Vending staff, Ald. Denise DeMarb

MEDIUM PRIORITY

3.2 Sec. 28.032 – Consider ways to consolidate certain residential districts

Issue: Many of the single-family residential districts are very similar, with only small differences in minimum lot size or allowable setbacks. It may be worthwhile to reexamine the differences in bulk requirements and statements of purpose to see whether some might be consolidated.

Source: Planning Staff

3.13 Various Sections - Create Specific Front Yard Setbacks on Zoning Map

Issue: The code allows for the creation of specific front yard setbacks, build-to lines, or ranges, but this tool has not been used systematically. The creation of these setbacks was previously recommended in the Downtown and along some mixed-use corridors. There was some discussion about considering street characteristics such as the terrace width, width of street, presence or absence of on-street parking, and others to create the specific setbacks.

Source: "Future" Discussion Item Raised by Plan Commission

LOW PRIORITY

3.3 Sec. 28.032 - Small/Modest House – Look at both zoning/building code issues

Issue: Zoning ordinance does not include provisions to adequately allow for a "small house" village of homes on a common/small lot, where small dwellings may be placed among shared open space and other amenities.

Source: Zoning/Planning Staff

3.9 Sec. 28.072 - Evaluate bulk requirements of existing DR districts and potentially add a third DR district

Issue: There are currently two downtown residential districts with different bulk requirements and slightly different lists of allowable uses. Working together with the Downtown Height Map, these two districts may or may not adequately regulate development parameters for the residential areas of the Downtown.

Source: Alder/Plan Commissioner Zellers

3.10 Sec. 28.138 - Create Lakefront Vegetation Removal and Replacement Standards

Issue: In previous discussions, the Plan Commission asked staff to draft lakefront vegetation and replacement standards.

Source: "Future" Discussion Item Raised by Plan Commission

3.11 Sec. 28.186(X) - Performance bond

Issue: A number of developers do not successfully implement approved plans, and significant staff resources must be spent to compel compliance with approved plans. The existing tool to compel compliance is City Attorney prosecution, which can take a long time to complete, and only results in fines for noncompliance during a set period of time. In many cases, violations remain unresolved, prompting additional prosecutions. Explore requiring performance bonds to ensure that developers will have an incentive to complete projects as approved.

Source: Zoning/Building Inspection