

ORDINANCE NO. 54

AN ORDINANCE OF THE CITY OF WOLVERTON, MINNESOTA, REGULATING THE ERECTION, CONSTRUCTION, ENLARGEMENT, ALTERATION, REPAIR, REMOVAL, DEMOLITION, CONVERSION, OCCUPANCY, USE, HEIGHT, AREA AND MAINTENANCE OF ALL BUILDINGS AND STRUCTURES, AND AREAS ADJACENT THERETO, IN THE CITY OF WOLVERTON, MINNESOTA.

THE COUNCIL OF THE CITY OF WOLVERTON, MINNESOTA, DOES HEREBY ORDAIN:

SECTION 1 GENERAL

- SUBD. 1: Title. This Ordinance shall be known as the "Wolverton Zoning Ordinance" except as referred to herein, where it shall be known as "this Ordinance".
- SUBD. 2: Intent and Purpose. The intent of this Ordinance is to protect the public health, safety and general welfare of the community and its residents through the establishment of minimum regulations governing development and use. This Ordinance shall divide the City of Wolverton into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land. Such regulations are established to protect such use areas; to promote orderly development and redevelopment; to provide adequate light, air and convenience of access to property; to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentrations of structures by regulating, land, buildings, yards and density of population; to provide for compatibility of different land uses; to provide for administration of this Ordinance; to prescribe penalties for violation of such regulations; and to define powers and duties of the City Staff, the Board of Appeals, the Planning Commission, and the City Council.
- SUBD. 3: Relation to Comprehensive Municipal Plan. It is the policy of the City of Wolverton that the enforcement, amendment and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the City's Comprehensive Plan as developed and amended from time to time by the Planning Commission and the City Council. The City Council recognizes the Comprehensive Plan as the Policy for responsibility to regulate land use and development in accordance with the policies and purpose herein set forth.
- SUBD. 4: Standard Requirement. Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the City, the ordinance, rule or regulation which imposes the more restrictive condition, standard or requirement shall prevail.

SUBD. 5: In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.

SUBD. 6: No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.

SUBD. 7: Except as herein provided, no building, structure or premises shall hereafter be used or occupied that does not conform to the requirements of this Ordinance.

SUBD. 8: Uses Not Provided for Within Zoning Districts. Whenever, in any zoning district, a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case, the Planning Commission or the City Council, at their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use.

SUBD. 9 Rules. The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural, and the plural the singular.
- B. The present tense includes the past and the present tenses, and the future the present.
- C. The word "shall" is mandatory while the word "may" is permissive.
- D. The masculine gender includes the feminine and neuter.

SUBD. 10 Separability. It is hereby declared to be the intention of the City that the several provisions of this Ordinance are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or other structure, such judgment shall not affect the application of the provisions of any other property, building, or structure not specifically included in said judgment.

SUBD. 11 Authority. This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.363, as may be amended.

SUBD. 12 Comprehensive Revision. Except as otherwise provided herein, the provisions of this Ordinance are not intended to alter, diminish, or increase or otherwise modify any rights or liabilities existing on its effective date. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to the effective date of this Ordinance is not affected by its enactment.

## SECTION 2 DEFINITIONS

The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

SUBD. 1 Accessory Building or Use. A subordinate building or use that is located upon the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.

SUBD. 2 Agriculture. "Agriculture" is the use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the procedure; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agriculture activities. Agriculture shall not include the commercial feeding of garbage or offal swine or other animals.

SUBD. 3 Alley. A public right-of-way less than thirty (30) feet in width which affords secondary access to abutting property.

SUBD. 4 Automobile Wrecking. Any place where two (2) or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open and are not being restored to operation; and including any commercial salvaging and scavenging of any other goods, articles or merchandise.

SUBD. 5 Block. That property abutting one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage.

SUBD. 6 Buildable Area. The portion of a lot remaining after required yards and setbacks have been provided.

SUBD. 7 Building. Any structure used or intended for supporting or sheltering any use or occupancy.

SUBD. 8 Building Height. A distance to be measured from the mean ground level of the building area to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, or to the uppermost point on all other roof types.

- SUBD. 9      Business. Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.
- SUBD. 10     Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
- SUBD. 11     Conditional Use. A use, that because of special control problems the use presents, requires imposition of reasonable, but special, unusual and extraordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the municipal land use plan.
- SUBD. 12     Conditional Use Permit. A permit issued by the Council in accordance with procedures specified in this Ordinance, as a flexibility device to enable the Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.
- SUBD. 13     Day Care. The care of children outside of their own homes for a part of the 24 hour day by persons unrelated to them by blood or marriage. Day Care includes family day care, group family day care, and care in group day care centers.
- SUBD. 14     District. A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted thereon.
- SUBD. 15     Dog Kennel. Any place where three (3) dogs or more over six (6) months of age are boarded, bred and/or offered for sale except as a veterinary clinic.
- SUBD. 16     Dwelling. A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family and multiple family dwellings, but not including boarding houses.
- SUBD. 17     Dwellings, Manufactured Housing. A detached residential dwelling unit designed for transportation on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered a mobile home.
- SUBD. 18     Dwelling, Multiple. A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other.

- SUBD. 28 Lot (Of Record). A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this Ordinance, or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building, or principal use together with any accessory buildings and such open spaces as required by this Ordinance and having its principal frontage on a street, or a proposed street approved by the Council.
- SUBD. 29 Lot. Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area required by this Zoning Ordinance for a building site in the district in which such lot is situated and having its principal frontage on a street, or a proposed street approved by the Council.
- SUBD. 30 Lot Area. The area of a horizontal plane within the lot lines.
- SUBD. 31 Lot, Corner. A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.
- SUBD. 32 Lot, Depth. The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.
- SUBD. 33 Lot, Frontage. The front of a lot shall be, for purposes of complying with this Ordinance, that boundary abutting a public right-of-way having the least width.
- SUBD. 34 Lot, Interior. A lot other than a corner lot, including through lots.
- SUBD. 35 Lot, Line. A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.
- SUBD. 36 Lot, Width. The shortest horizontal distance between the side lot lines measured at right angles to the lot depth.
- SUBD. 37 Municipal Water and Sewer System. Utility systems serving a group of buildings, lot or an area of the City, with the design and construction of such systems as approved by the City.
- SUBD. 38 Non-Conforming Structures or Use. Any structure or use which on the effective date of this Ordinance does not, even though lawfully established, conform to the applicable conditions of this Ordinance, if the structure or use was to be erected under the guidance of this Ordinance.

- SUBD. 39 Open Sales Lot. Any open land used or occupied for the purpose of buying, selling and/or renting merchandise and for the storing of same prior to sale.
- SUBD. 40 Permitted Use. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.
- SUBD. 41 Principal Use. The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted or conditional.
- SUBD. 42 Public Uses. Uses owned or operated by municipal, county, state or other governmental units.
- SUBD. 43 Recreation, Field or Building. An area of land, water, or any building in which amusement, recreation or athletic sports are provided for public or semi-public use.
- SUBD. 44 Recreational Vehicle. A self-propelled vehicle which is used primarily for recreational purposes.
- SUBD. 45 Roof Line. Is defined as the top of the coping, or when the building has a pitched roof, as the intersection of the outside wall with the roof.
- SUBD. 46 Setback. The minimum horizontal distance between a building and street or lot line. Distances are to be measured from the most outwardly extended portion of the structure at ground level.
- SUBD. 47 Story. That portion of a building included beneath the upper surface of a floor and upper surface of floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused under-floor space shall be considered a story.
- SUBD. 48 Story, Half. That portion of a building under a gable, hip, or gambrel roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than two (2) feet above the floor of such story, and basements where less than one-half (1/2) of the floor to ceiling height is below the average of the highest and lowest point of that portion of the lot covered by the building.
- SUBD. 49 Street. A public thoroughfare thirty (30) feet or more in right-of-way width.

- SUBD. 50 Street Frontage. The proximity of a parcel of land to one (1) or more streets. An interior lot has one (1) street frontage and a corner lot has two (2) frontages.
- SUBD. 51 Structure. Anything which is built, constructed, or erected; an edifice or building of any kind or any piece of work artificially build up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.
- SUBD. 52 Structural Alterations. Any change in the supporting members of a building, such as bearing walls, column, beams or girders.
- SUBD. 53 Use. The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained.
- SUBD. 54 Useable Open Space. A required ground area or terrace area on a lot which is graded, developed, and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and useable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for recreational purpose. Roofs, driveways and parking areas shall not constitute useable open space.
- SUBD. 55 Variance. The waiving by the Board of Adjustments and Appeals action of the literal provisions of the Zoning Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.
- SUBD. 56 Watercourse. Means a channel or depression through which water flows, such as rivers, streams, or creeks, and may flow year-around or intermittently.
- SUBD. 57 Yard. An open space on the lot which is occupied and unobstructed from its lowest level to the sky. A yard extends along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.
- SUBD. 58 Yard, Front. A yard extending across the front of the lot between the side lot lines and lying between the front line of the lot and the nearest line of the building.
- SUBD. 59 Yard, Rear. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.
- SUBD. 60 Yard, Rear Depth. The mean horizontal distance between the rear line of the building and the center line of an alley, where an alley exists; otherwise, a rear lot line.

SUBD. 61

Yard, Side. A yard between the side line of the lot and the nearest line of the building and extending from the lot line of the lot to the rear yard.

### SECTION 3 GENERAL PROVISIONS

SUBD. 1

#### Non-Conforming Buildings, Structures and Uses.

- A. Purpose. It is the purpose of this Section to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Section that all non-conforming uses shall eventually be brought into conformity.
- B. Any structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or subsequently amended.
- C. Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe. Providing the necessary repairs shall not constitute more than fifty (50) percent of fair market value of such structure. Said value shall be determined by the County Assessor.
- D. No non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time that this Ordinance was adopted unless such movement shall bring the non-conformance into compliance with the requirements of this Ordinance.
- E. When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
- F. A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.
- G. If at any time a non-conforming building, structure or use shall be destroyed to the extent of more than fifty (50)

percent of its fair market value, said value to be determined by the Assessor, then without further action by the Council, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located.

- H. Whenever a lawful non-conforming use of a structure or land is discontinued for a period of six (6) months, following written notice from the Zoning Administrator or other authorized agent of the City, any future use of said structure or land shall be made to conform with the provisions of this Ordinance.
- I. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use.
- J. Alterations may be made to a building containing lawful non-conforming residential units when said alterations will improve the livability thereof, provided they will not increase the number of dwelling units or the non-conformity.
- K. Non-conforming, non-income producing, residential units may be expanded to improve livability as a conditional use, provided that the non-conformity of the structure will not be increased.
- L. Any proposed structure which will, under this Ordinance, become non-conforming but for which actual construction has begun prior to the effective date of this Ordinance, may be completed; provided construction is not abandoned for a period of more than thirty (30) days, and continues to completion within ninety (90) days. Such structure and use shall thereafter be a legally non-conforming structure and use.
- M. Non-Conforming Junk Yards. No junk yard may continue as a non-conforming use for more than one (1) year after the effective date of this Ordinance, except that a junk yard may continue as a non-conforming use in an Industrial District if within that period it is completely enclosed within a building, fence, screen planting, or other device of such height as to screen completely the operation of the junk yard. Plans of such a building, fencing, screening, or device shall be approved by the City Planning Commission and the City Council before it is erected or put into place.

SUBD. 2

General Building and Performance Requirements.

A. Purpose. The purpose of this Section of the Zoning Ordinance is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent blight, deterioration and decay; and to enhance the health, safety, and general welfare of the residents of the community.

B. Dwelling Unit Restriction.

1. No cellar, garage, tent or accessory building shall at any time be used as an independent residence or dwelling unit, temporarily or permanently.
2. Basements may be used as living quarters or rooms as a portion of residential dwellings.
3. Tents, playhouses or similar structures may be used for play or recreational purposes.

C. Residential Parking.

1. All residential uses shall provide, at a minimum, one (1) off-street parking space measuring approximately 10 feet by 20 feet. Said space shall be located upon private property owned by the owner of the residential structure and shall be designated by surface or bordering.
2. Designated residential parking spaces shall not be located within the front yard. For the purposes of this section only, front yard is defined as the area bordered by the front of the residence, the property line bordering the street, and the lines created by extending the sidewalls of the main building, not including any garage, toward the street.

D. Platted and Unplatted Property.

1. Any person desiring to improve property shall submit to the Zoning Administrator a survey of said premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property, encroachments, and any other information which may be necessary to insure conformance to City Ordinances.
2. All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City in conformity with existing streets and according to the system and standards employed by the City.

E. Accessory Buildings, Uses and Equipment.

1. An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a covered passageway.
2. No combination of accessory building(s) and/or garage(s) for single family dwellings shall exceed one thousand five hundred (1,500) square feet of floor area.

F. General Fencing, Screening and Landscaping.

1. No fence shall exceed six (6) feet in height and in the case of grade separation such as the division of properties by a retaining wall the height shall be determined on the basis of measurement from the average point between the highest and lowest grade.
2. No fences, other than the chain link fences with opening to be one and five eighths (1 5/8) inches to two (2) inches and not to exceed a maximum height of thirty (30) inches, and/or other structures or planting of trees or shrubs shall be permitted within thirty (30) feet of any corner formed by the intersection of street property lines or the right-of-way of a railway intersecting a street. The thirty (30) feet referred to above shall be in the form of a triangle with two sides formed by the property lines and the third side formed by a straight line connecting the two (2) thirty (30) foot points on both sides of the corner.
3. Except as provided in 2 above, fences less than three (3) feet in height may be located on any part of a lot.
4. Except as provided in 2 above, fences may be erected on any part of a lot which is behind the front line of the principal building.
5. In all zoning districts the lot area remaining after providing for off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be planted and maintained in grass, sodding, shrubs, or other acceptable vegetation or treatment generally used in landscaping.

G. Required Fencing, Screening and Landscaping. All fencing and screening required by this Ordinance shall be subject to Section 3, Subd. 2F hereof and shall consist of either a fence or a green belt planting strip.

1. A green belt planting strip shall consist of evergreen ground cover and shall be of sufficient width and density to provide an effective screen. This planting strip shall contain no structures or other use. Such