

SECTION 1041 – GENERAL LOT AND YARD REQUIREMENTS

SECTION

- 1041.01: Purpose
- 1041.02: Platting Required
- 1041.03: Unsewered Uses and Lots
- 1041.04: General Yard Requirements
- 1041.05: Permitted Encroachments
- 1041.06: General Setback Provisions
- 1041.07: Setback Average
- 1041.08: Open Sales Lots
- 1041.09: Outside Storage/Display
- 1041.10: Subdivision of Attached Residential Dwellings
- 1041.11: Subdivision of Multiple Tenant Commercial and Industrial Buildings.
- 1041.12: Development Density

1041.01: PURPOSE: The purpose of this Section is to identify minimum yard spaces, exceptions, and areas to be provided for in each zoning district.

1041.02: PLATTING REQUIRED: With the exception of single family detached dwellings, no building shall be constructed on unplatted property, except for the addition of accessory structures or additions to existing buildings.

Subd. 1. Detailed Data Required. Any person desiring to improve property shall submit to the Building Official 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 ensure conformance to City Ordinances.

1041.03: UNSEWERED USES AND LOTS: The following standards shall apply to existing unsewered lots within the City.

Subd. 1. No Sewer and Water. All new developments and structures intended for human use or occupancy shall be connected to the public water supply and sanitary sewer systems.

- a. If construction is proposed for an existing lot which does not have either public water supply or sanitary sewer system available adjacent to the property proposed to be developed, no building permit shall be issued for such development until provisions have been made by the person proposing the development to provide

adequate water supply and sanitary sewer service to the property. The City shall determine what constitutes adequate water and sewer service. The City may also require cash or an irrevocable Letter of Credit be provided to the City in an amount equal to one hundred twenty five (125) percent of the estimated costs of extending public water and sanitary sewer facilities to the subject property.

Subd. 2. Expansion of Existing Structures on Individual Sewage Treatment Systems. No building permits will be issued for existing structures on individual sewage treatment systems for expansion of the structure, unless it can be demonstrated by means satisfactory to the City that the development will not result in groundwater, soil or other contamination which may endanger the public health.

1. The property owner must receive approval for an individual septic treatment system and private well from the City, County or the State Health Department. No Certificate of Occupancy shall be issued until these systems have been inspected and approved.

Subd. 3. Townhomes, multiple family dwellings, commercial and industrial developments shall not be permitted on unsewered lots.

Subd. 4. Other Uses. Subject to the other provisions of the Zoning Ordinance, uses other than residential, commercial or industrial structures may be allowed by conditional use permit on lots without public sewer and water provided a conditional use permit is obtained and the requirements of this Ordinance are satisfied. The minimum lot size for each principal use is set forth by the applicable zoning district requirement. A conditional use permit shall not be granted unless it can be demonstrated by means satisfactory to the City that the use:

1. Will not result in groundwater, soil or other contamination which may endanger the public health.
2. Will not prematurely require or increase future City utility service demands and expense.
3. Will not jeopardize public safety and general welfare.

1041.04: GENERAL YARD REQUIREMENTS:

Subd. 1. The minimum lot area, minimum depth of front yard, rear and side yard shall conform to the standards of the applicable zoning district. No proposed plat of a new subdivision shall hereafter be approved unless the lots within such plats should be equal to or exceed the minimum size as required for the district in which the property is located, and shall include documentation which suggests the location for both principal and accessory structures.

Subd. 2. Minimum Yard Required. No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum

required by this Ordinance nor shall the density of population be increased in any manner except in conformity with the regulations provided in this Ordinance. In the event that an existing yard or other open space is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as a part of any open space required for another structure.

1. **Residential Open Space.** Except as may be approved by the City Council and except for lots of record, preliminary platted lots, and residential Planned Unit Development concepts having legal standing on July 20, 2002 (effective date of Ordinance), residential lots in all zoning districts of the City must contain usable/buildable upland equal to at least ninety (90) percent of the required minimum lot areas. The required upland area shall not contain wetlands, streams, ponds, steep slopes (twelve, 12% or greater), electrical or pipeline easements or any other non-buildable terrain. Lots which involve wetland mitigation practices shall be evaluated for conformance with this requirement based on wetland mitigation plans indicating areas of wetland filling or dredging.

Subd. 4. **Double Frontage or Through Lots and Corner Lots.** On a through lot or corner lot, the required front yard shall be provided on both streets. Double frontage or through lots shall required additional depth of twenty (20) feet above the minimum requirements of the underlying Zoning District to accommodate the buffer and screening requirements outlined in Section 1027 (Landscape, Screening and Tree Preservation) of this Ordinance. Both street lines shall be front lot lines for applying the yard setback regulations of this Ordinance. Lot lines that are not parallel to a street shall be considered as side lot lines. No home on a through lot or corner lot in any residential zone shall be allowed direct access to any major collector or arterial street designated as such by the Comprehensive Plan, except as may be permitted by the City Engineer.

Subd. 5. **Lots with or adjacent to Power Lines, Pipe Lines and Rail Roads.** Lots platted or located adjacent to power lines, pipe lines and rail road right-of-way shall require additional depth of twenty (20) feet above the minimum requirements of the underlying Zoning District to accommodate the buffer and screening requirements outlined in Section 1027 (Landscape, Screening and Tree Preservation) of this Ordinance.

Subd. 6. **Yards for Open Land Uses.** Where a lot is to be occupied for permitted uses without buildings or structures, the side yards and front yards, required in this Ordinance for the zone within which the lot is located, shall be provided and maintained between such use and the respective lot lines; provided that side and rear yards shall not be required on lots without buildings or structures, used for garden purposes or public playgrounds.

Subd. 7. **Clear View Triangle.** Except as may be approved by the Zoning Administrator, and except for a governmental agency for the purpose of screening, no wall, fence, structure, tree, shrub, vegetation or other obstruction shall be placed on or extend into any yard or right-of-way area so as to pose a danger to traffic by obscuring the view of approaching vehicular traffic or pedestrians from any street or driveway. Visibility from any street or driveway shall be unobstructed above a height of three (3) feet, measured from where both street

or driveway center lines intersect within the triangle described as beginning at the intersection of the projected curb line of two intersecting streets or drives, thence thirty (30) feet along one curb line, thence diagonally to a point thirty (30) feet from the point of beginning along the other curb line. The exception to this requirement shall be where there is a tree, planting or landscape arrangement within such area that will not create a total obstruction wider than three (3) feet. These requirements shall not apply to conditions that legally exist prior to the effective date of this Ordinance unless the Zoning Administrator determines that such conditions constitute a safety hazard.

Subd. 8. Frontage Requirement. Except as may be allowed by conditional use permit or within a Planned Unit Development, each lot shall have frontage on and access to an abutting, improved and City accepted public street.

1. Every building hereafter erected or moved shall be so located on lots as to provide safety and convenient access for servicing, fire protection, and required off-street parking.

Subd. 9. Outlots. Outlots are deemed unbuildable and no building permit shall be issued for such properties, except in the case of public park facilities, essential services and other facilities constructed by the City of Big Lake.

1041.05: PERMITTED ENCROACHMENTS: This Section is not intended to effect or make non-conforming any existing building, structure or use. Accordingly, the following provisions shall pertain to new construction only. The following structural elements or equipment shall not be considered as encroachments on yard setback requirements:

Subd. 1. Every part of a required yard or court shall be open from its lowest point to the sky, unobstructed except for the ordinary projection of window wells chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like provided they do not project more than thirty (30) inches into a yard.

Subd. 2. Terraces, steps, platforms, stoops, patios, or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than five (5) feet from any lot line. No encroachment shall be permitted in existing or required drainage and utility easements.

Subd. 3. Open or lattice enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers projecting into a yard not more than two (2) feet or into a court not more than three and one-half (3 1/2) feet shall be permitted, where the same are to be so placed as not to obstruct light and ventilation.

Subd. 4. In Front Yards.

1. One story bay windows projecting thirty (30) inches or less into the yard setback.

2. A landing place or uncovered porch not exceeding six (6) feet by six (6) feet (36 square feet total area), may extend into the required front yard to a distance not exceeding six (6) feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing no higher than three (3) feet may be placed around such place.

Subd. 5. In Side Yards. Overhangs, eaves and gutters may project into any required yard and setback a distance of thirty (30) inches.

Subd. 6. In Rear Yards.

1. One (1) story bay windows and overhanging eaves and gutters projecting thirty (30) inches or less into the yard.
2. Laundry drying equipment, arbors and trellises, and air conditioning or heating equipment.

1041.06: GENERAL SETBACK PROVISIONS:

Subd. 1. Measurement. For the purposes of this Ordinance, setback distances shall be measured to the foundation of structures except in those cases where any part of the structure (i.e. deck, porch), projects beyond the foundation, excluding roof overhangs. In cases where there is no foundation (patios, platforms, storage sheds, signs, fences etc.), setbacks shall be measured to the closest part of the structure to the lot line and/or right-of-way line and/or ordinary-high-watermark.

Subd. 2. Multiple Setback Requirements. When more than one setback applies to a site, structures and facilities must be located to meet the most restrictive setback standard.

Subd. 3. Street Easements. In the case of properties which abut street easements, applicable setbacks shall be measured from the easement line and shall be related to roadway classification as identified in the Big Lake Comprehensive Plan, Transportation Plan, and Subdivision Ordinance.

Subd. 4. Setbacks along Thoroughfares. Heavily used streets designated as arterials, County Roads or major collector streets by the Big Lake Comprehensive Plan have special minimum setback needs and requirements.

1. Along the following principal arterial and major arterials, the minimum structure setback shall be fifty (50) feet from the right-of-way unless otherwise identified in the underlying Zoning District. (Ord. 2004-19, 8/11/04).
 - a. U.S. Highway 10 (Jefferson Boulevard)
 - b. State Trunk Highway 25 (Lake Street South)
 - c. County Road 5 (Eagle Lake Road North)

2. Along collector streets including, but not limited to the following thoroughfares, the minimum structure setback shall be forty-five (45) feet from the right-of-way unless otherwise identified in the underlying Zoning District.
 - a. County Road 43
 - b. County Road 73
 - c. County Road 81
 - d. Glenwood Avenue (east of County Road 43)
 - e. Highline Drive
 - f. Eagle Lake Road South
3. Decks in rear yards only along the collector streets listed in 1041.06 Subd. 4.2 (above) are allowed an encroachment of up to ten (10) feet from the forty-five (45)-foot structure setback. (Ord. 2013-03; 09/25/13)

Subd. 5. Setbacks along Railroads. At the intersection of roadways and railroad right-of-ways and tracks, there shall be a setback line in each of the quadrants formed by the railway right-of-way and the street right-of-way as follows:

1. The setback line in each quadrant shall be a line drawn from a point seventy-five (75) feet distant along the outside railroad right-of-way line from its intersection with the street right-of-way line to a point seventy-five (75) feet distant from said intersection along the street right-of-way line. Within said setback area, there shall be constructed no fence or structure nor shall there be permitted any tree, shrubbery or any other planting which would obscure the line of sight across the setback.
2. The residential structure setback from the railroad right of way in residential and Agricultural Districts shall be one hundred (100) feet.
3. The minimum structure setback from the railroad right of way in commercial and industrial districts shall be ten (10) feet.

Subd. 6. Pipeline Setback Requirements. The following setback provisions are required in order to increase the public safety with respect to proximity of development to pipelines. This section applies to new residential and other development. It does not apply to development that has occurred or for which development permits have been issued before the effective date of the enactment of this Ordinance.

1. Buildings and places of public assembly shall not be constructed closer to the pipeline than the boundary of the pipeline easement.

Subd. 7. Wetland, Pond and Drainage way Setback. In addition to the setbacks required for principal and/or accessory structures under individual zoning districts or in other sections of this Ordinance, all structures must be set back a minimum of thirty (30) feet from the ordinary high water level or the edge of a delineated wetland (whichever is greater) of all wetlands, ponds or drainage ways. (Ord. 2004-19, 8/11/04).

Subd. 8. In residential districts, air conditioning units, excluding window units, shall be located a minimum of ten (10) feet from all lot lines, but not within the front yard.

1041.07: SETBACK AVERAGE: Where adjacent residential structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure.

Subd. 1. In no case shall the front yard setback in a residential district be less than twenty (20) feet.

Subd. 2. Shoreland District Setback Average. Where principal structures exist on the adjoining lots on both sides of a proposed building site, principal structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed principal building site is not located in a shore impact zone or in a bluff impact zone.

Subd. 3. In order to determine the setback average, a certificate of survey shall be provided by the applicant showing the setback distances of adjacent principal structures to the front setback line or to the ordinary high water level in the case of a Shoreland Management District.

1041.08: OPEN SALES LOTS: open sales on lots without a principal structure are prohibited except as specifically permitted in the underlying zoning district or for sales promotions of not more than three (3) days duration which are ancillary to and consistent with the principal authorized use of the premises. All second hand passenger cars and/or trucks, motor scooters, motorcycles, boats, trailers, construction equipment and monuments held for sale or stored for sale, shall be stored within a building.

1041.09: OUTSIDE STORAGE / DISPLAY:

Subd. 1. General. All materials and equipment, except as specifically authorized elsewhere in this Ordinance, shall be stored within a building or fully screened so as not to be visible from adjoining properties.

1. Passenger automobiles, trucks, and other motorized vehicles not currently licensed by the State, or which are incapable of movement under their own power due to mechanical deficiency, which are parked or stored outside for a period in excess of forty-eight (48) hours, and all materials stored outside in violation of the

City Ordinances are considered refuse or junk and shall be disposed of pursuant to City regulations.

2. Any accumulation of refuse not stored in containers which comply with City Code, or any accumulation of refuse including car parts which has remained on a property for more than forty-eight (48) hours is hereby declared to be a nuisance and may be abated by order of the Zoning Administrator, as provided by Minnesota Statutes and Chapter 500 (Nuisance) of the City Code. The cost of abatement shall be recovered in accordance with the applicable provisions of Section 1002.09 (Administration - Cost Recovery) of this Ordinance.
3. Temporary storage structures and construction dumpsters shall be allowed in the front yard on an improved surface or in the side yard on an improved or semi-improved surface for a period of no more than 90 days per calendar year. A maximum of 180 days per calendar year may be approved by the Zoning Administrator. Under no circumstances shall these structures be used for temporary living or working quarters (Ord. 2010-04, 7/28/10).

Subd. 2. Residential Zoning Districts.

1. Exceptions. All personal property shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following:
 - a. Play and recreational facilities.
 - b. Clothesline pole and wires.
 - c. Stacked firewood for the burning supply of the property resident.
 - d. Construction and landscaping materials currently being used on the premises for current construction projects.
 - e. Agricultural equipment and materials, if these are used or intended for use on the premises within a period of six (6) months.
 - f. All off-street parking of operable and licensed passenger automobiles and personal or commercial vehicles of less than twelve thousand (12,000) pounds gross vehicle weight rating (GVWR); in a designated driveway or parking pad, surfaced in compliance with Section 1030 (Off-Street Parking and Loading).

Subd. 3. Commercial and Industrial Zoning Districts.

1. Outside Storage/Display. Exterior storage and display shall be governed by the respective zoning district in which such use is located.

2. Additional Standards. All exterior storage shall be screened so as not to be visible from adjoining properties and public streets except for the following:
 - a. Merchandise being displayed for sale in accordance with zoning district requirements.
 - b. Materials and equipment currently being used for construction on the premises.
3. Parking of Commercial Vehicles. Up to three (3) commercial vehicles such as delivery and service trucks up to twelve thousand (12,000) pounds gross vehicle weight rating (GVWR) may be parked without screening if such vehicles relate to the principal use. Construction equipment, trailers, and vehicles over twelve thousand (12,000) pounds gross vehicle weight rating (GVWR) shall require screening in compliance with Section 1027 (Landscape, Screening and Tree Preservation) of this Ordinance.

Subd. 4. All Zoning Districts.

1. Except for temporary construction trailers and mobile services operated by public service agencies (i.e., bookmobile, bloodmobiles, etc.) as allowed by the City, and trailers parked in designated and improved loading area, no vehicle may be used for office, business, industrial manufacturing, testing, or storage of items used with or in a business, commercial or industrial enterprise, unless otherwise approved by the Zoning Administrator.
2. The City Council may order the owner of any property to cease or modify open storage uses including existing uses, provided it is found that such use constitutes a threat to the public health, safety, convenience, or general welfare.

1041.10 SUBDIVISION OF ATTACHED RESIDENTIAL DWELLINGS: The subdivision of base lots containing two family units (twinhomes or duplexes) or townhouses in existence on July 20, 2002 (effective date of Ordinance), to permit individual private ownership of a single dwelling unit within such a structure is permitted upon approval by the Zoning Administrator or designee.

Subd. 1. The minimum lot area, lot width, and side yard setback requirements may be waived subject to the following conditions:

1. A common wall shared by the dwellings is located in its entirety on the boundary line separating the lots. A certificate of survey shall be required to demonstrate compliance with this provision.
2. Variances shall not be required for the zero (0) lot line setback associated with internal (common) walls between the units.

3. The common wall meets standards of the Building Code for owner occupied units and other applicable codes enforced by the City.
4. The building Inspector shall make an up-front inspection of any fire-wall constructed for split townhomes. (Ord. 2003-05).
5. A covenant or other agreement is approved by the City Attorney and filed with the Sherburne County Recorder's Office.
6. Each of the dwelling units is served by separate public utilities, none of which are shared.
7. There shall be no more than one principal structure on a base lot in all residential districts. The principal structure on a unit lot created in a twinhome or townhouse subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lots.
8. Filing Requirement. The certificate of survey showing the new lot/unit boundaries and legal descriptions shall be filed with the City of Big Lake and Sherburne County. All fees associated with said filing shall be paid by the applicant.

Subd. 2. In addition to the provisions of Subd. 1 above, the subdivision of duplex, triplex, and quadraminium units within the Shoreland District of Natural Environment Lakes must meet the following standards in addition to the items listed in Subd. 1 above:

1. Each building must be setback at least two hundred (200) feet from the ordinary high water level.
2. Each unit shall be provided with a separate sewer and water service.
3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.
4. No more than twenty-five (25) percent of a lake's shoreline can be developed in duplex, triplex, or quad developments.

1041.11: SUBDIVISION OF MULTIPLE TENNANT COMMERCIAL AND INDUSTRIAL BUILDINGS: Commercial and industrial multiple tenant buildings in existence on July 20, 2002 (effective date of Ordinance) may be subdivided for individual lot ownership upon approval by the Zoning Administrator or designee provided:

1. The subject site is platted and recorded in conformance with the requirements of the Subdivision Ordinance, as applicable.

2. The subdivision shall comply with applicable cooperative or condominium laws.
3. Variances shall not be required for the zero (0) lot line setback associated with internal (common) walls between the units.
4. All other provisions required by this Ordinance shall be applicable to each subdivided lot.

1041.12: DEVELOPMENT DENSITY: Residential development density shall be based upon the minimum base lot size indicated in the respective zoning district and the gross land area of the project site.