CITY OF MILACA Minnesota
255 First Street East, Milaca, MN 56353 (320)983-3141 | (320)983-3142 fax

CITY OF MILACA
PLANNING COMMISSION AGENDA
MARCH 10, 2025
6:00 P.M.
255 1ST ST E, CITY HALL COUNCIL ROOM

1. Call to Order Regular Planning Commission Meeting Time_____

2. Roll Call

___ Brett Freese ___Greg Kuperus ___Jake Lepper ___Joel Millam ___Mitch Siemers ___Brad Tolzman

3. Approve minutes from January 13, 2025 MB_____2nd_____AIF____O____

4. **Open Public Hearings: Time_____** (Discussion from Planning Commission members conducted under New Business)

   a. Public Hearing on Proposed Ordinance Adding Tarp-Like Structures

   Close Public Hearings: Time_____

5. Old Business
   a. Solar Panel Ordinance
   b. Cannabis and Cannabis Business and Cultivation Ordinance

6. New Business
   a. Proposed Ordinance Adding Tarp-Like Structures

7. Miscellaneous

   a. 2 Vacancies on the Planning Commission

8. AdjournTime_____ MB_____2nd_____AIF____O____

CITY OF MILACA PLANNING COMMISSION MEETING MINUTES
January 13, 2025
6:00 P.M.

1. OPEN PLANNING COMMISSION MEETING: Brad Tolzman –Chairman 6:00 p.m.

2. MEMBERS PRESENT: Roll Call:
a. Brett Freese, Greg Kuperus, Jake Lepper, Joel Millam, Mitch Siemers, Brad Tolzman
b. Others Present: City Manager Tammy Pfaff, Assistant City Clerk Deloris Katke, Council Liaison Norris Johnson. Citizens- Austin Jaeger, Mitch Long, Jill Johnson

3. APPROVAL OF MINUTES FROM November 18, 2024:
Chairman Tolzman called for a motion to approve the minutes from November 18, 2024.
Motion to approve minutes from November 18, 2024, made by Mitch Siemers, seconded by Joel Millam. No further discussion. All in favor.
Motion passes.

4. PUBLIC HEARINGS: Opened at 6:01

a. **Conditional Use Permit from Mitch Long (ML Homes):** City Consultant, Phil Carlson, Stantec, spoke about the nature of the request, and noted that the Conditional Use Permit, Preliminary Plat, and Final Plat all go hand in hand, and should be considered accordingly. The request for this development is for single family homes on single lots that are smaller than the minimum lot required for a R-2 District. The lots proposed for this plat are 7,100 sq. ft. to 9,600 sq. ft., versus the R-2 District requirement of 10,000 sq. ft.
b. **Preliminary Plat from Mitch Long (ML Homes):** See comments for Item "a".
c. **Final Plat from Mitch Long (ML Homes):** See comments for Item "a".

No public input.
No individuals spoke in opposition to this change.

5. PUBLIC HEARINGS: Closed at 6:05

6. OLD BUSINESS:
-No old business.

7. NEW BUSINESS:

a. **Conditional Use Permit from Mitch Long (ML Homes):** No additional discussion. to approve this request made by Brett Freese, seconded by Mitchell Siemers. No further discussion. All in favor. Motion passes.
b. **Preliminary Plat from Mitch Long (ML Homes):** No additional discussion. Motion to approve this request made by Brett Freese, seconded by Greg Kuperus. No further discussion. All in favor. Motion passes.
c. **Final Plat from Mitch Long (ML Homes):** No additional discussion. Motion to approve this request made by Brett Freese, seconded by Mitchell Siemers. No further discussion. All in favor. Motion passes.

8. MISCELLANEOUS:
City Manager Pfaff noted that Arla Johnson resigned from the Planning Commission, effective December 31, 2024, after serving on the commission for 27 years. Commission Members were encouraged to consider residents to fill this open seat.

9. ADJOURN:
PC Chairman Tolzman called for a motion to adjourn. PC Member Kuperus made the motion to adjourn. PC Member Milliam seconded the motion. No further discussion. All In favor.
Motion passes.
Meeting adjourned at 6:09 p.m.

Tammy Pfaff

From: Rusty Shovel Gardens <rustyshovelgardensmn@gmail.com>
Sent: Tuesday, January 14, 2025 9:46 AM
To: Tammy Pfaff
Subject: Councel Question

Hello,
I own Rusty Shovel Gardens, a micro flower business at the address of 345 and 355 2nd Ave. NW in Milaca. We. have obtained permission from the counsel to sell our flowers during the summer season on the properties. Last spring, we received a letter indicating that we had to remove our pop up greenhouse from 355 2nd Ave. Property due to a city ordinance. We did so before the requested date which was June 8th.

The greenhouse is 20x10 feet and is put up on that property to protect our fragile seedlings from the cold in the spring. We put the greenhouse up around the first of April and take it down around the first week of June. It is necessary to have this space to allow us to grow our flowers. I am requesting permission to have the greenhouse up for that short period of time, roughly two months, so we can maintain our business practices. Without this, we would not be able to grow our dahlias or other fragile plants. f

Thank you so much for your consideration,

Amy Smith

--
Amy Smith
Rusty Shovel Gardens
"Where you too can have happy!"
Rustyshovelgardens.com

CITY OF MILACA PLANNING COMMISSION MEETING MINUTES
August 5, 2024
6:00 P.M.

1. OPEN PLANNING COMMISSION MEETING: Brad Tolzman –Chairman 6:00 p.m.

2. MEMBERS PRESENT: Roll Call:
a. Brett Freese, Arla Johnson, Greg Kuperus, Joel Millam, Mitch Siemers, Brad Tolzman
b. Others Present: City Manager Tammy Pfaff, Assistant City Clerk Deloris Katke, Council Liaison Norris Johnson.

3. APPROVAL OF MINUTES FROM July 8, 2024:
Chairman Tolzman called for a motion to approve the minutes from July 8, 2024.
Motion to approve minutes from July 8, 2024, made by Arla Johnson, seconded by Mitch Siemers. No further discussion. All in favor.
Motion passes.

4. OLD BUSINESS:

a. **Ordinance #529 Regulating Cannabis Businesses and Cultivation:** City Manager Pfaff suggested no action at this time, recommending that the commission wait until the State of Minnesota finalizes rules and regulations pertaining to this subject before having additional discussions.
b. **Ordinance #530 Accessory Buildings, Structures and Uses (Tarp-Like Structures) in B-1 Central Business District**: PC Members recommended prohibiting all tarp-like structures, with the exception of those for business or retail use, during the time period April 1 to June 30, with a maximum size of 144 sq. ft.
Motion to approve this ordinance made by Brett Freese, seconded by Greg Kuperus. No further discussion. All in favor. Motion passes.
c. **Ordinance #531 Accessory Buildings, Structures and Uses (Tarp-Like Structures) in B-2 General Business District**: PC Members recommended prohibiting all tarp-like structures, with the exception of those for business or retail use, during the time period April 1 to June 30, with a maximum size of 144 sq. ft.
Motion to approve this ordinance made by Mitchell Siemers, seconded by Joel Millam. No further discussion. All in favor. Motion passes.

5. NEW BUSINESS:

a. **Solar Panel Discussion**: PC Members discussed numerous considerations related to solar panel usage, including the potential for requests to have "solar farms" within city limits. Member Millam provided first-hand insights and experience on many of these topics from his experience having solar structures on his homestead. City Manager Pfaff noted that no action was needed at this time, but that future discussions on this topic will likely be necessary to develop and update the city policy, as well as to address future requests.

b. **Recreational Vehicle Discussion**: After discussion, PC Members voted to recommend the city amend the ordinance to mirror that of St. Cloud, MN (See Attached) Motion to approve this ordinance made by Greg Kuperus, seconded by Arla Johnson. No further discussion. All in favor. Motion passes.

6. MISCELLANEOUS:
n/a

7. ADJOURN:
PC Chairman Tolzman called for a motion to adjourn. PC Member Millam made the motion to adjourn. PC Member Siemers seconded the motion. No further discussion. All In favor.
Motion passes.
Meeting adjourned at 7:14p.m.

ORDINANCE NO. XXX

AN ORDINANCE AMENDING TITLE XV (LAND USAGE) CHAPTER 156 (ZONING) OF THE CITY OF MILACA CODE OF ORDINANCES

THE CITY COUNCIL OF THE CITY OF MILACA, MINNESOTA ORDAINS AS FOLLOWS:

Section

___.01 Intent

___.02 Amendment

___.03 Penalty

Section 1: Intent.

A City initiated zoning ordinance text amendment to amend sections 156.006 Definitions; 156.035 R-1, Single Family Residential Low Density District; 156.036 R-2, One and two family residential medium density district; 156.037 R-3, Multiple family residential high density district; 156.038 B-1, Central business district; 156.039 B-2, General business district; 156.040 B-4, Business district; 156.041 HG-1, Health care and government building district; 156.042 I-1, Light industrial district and creating section 156.064 Solar energy systems of the City of Milaca Code of Ordinances relating to solar energy systems including associated definitions, zoning district allowed uses, and use requirements.

Section 2: Amendment.

Sections 156.006 Definitions; 156.035 R-1, Single Family Residential Low Density District; 156.036 R-2, One and two family residential medium density district; 156.037 R-3, Multiple family residential high density district; 156.038 B-1, Central business district; 156.039 B-2, General business district; 156.040 B-4, Business district; 156.041 HG-1, Health care and government building district; 156.042 I-1, Light industrial district and creating Section 156.064 Solar energy system of the City of Milaca Code of Ordinance is hereby amended to read as follows:

CHAPTER 156: ZONING

Section

General Requirements

156.064 Solar Energy Systems, excluding community-scale solar energy systems

§ 156.006 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SOLAR ACCESS. Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

SOLAR CARPORT – A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.

SOLAR COLLECTOR – The panel or device in a solar energy system that collects solar radiant energy and transforms it into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

SOLAR ENERGY SYSTEM. A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.

SOLAR ENERGY SYSTEM, BUILDING-INTEGRATED. A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

SOLAR ENERGY SYSTEM, GROUND-MOUNTED. A solar energy system mounted on a rack or pole that rests or is attached to the ground excluding community-scale solar energy systems. Ground-mounted systems are accessory to the principal use.

SOLAR ENERGY SYSTEM, ROOF-MOUNTED. A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mounted systems are accessory to the principal use.

SOLAR ENERGY SYSTEM, COMMUNITY-SCALE. A commercial solar energy system that converts sunlight into electricity for the primary purpose of serving electric demands off-site from the facility, either retail or wholesale. Community-scale systems are principal uses and projects typically cover less than 20 acres.

(Ord. 134/94, passed 3-24-94; Am. Ord. 483, passed 6-16-21; Am. Ord ####, passed ##-##-##)

DISTRICT REGULATIONS; USE REQUIREMENTS AND RESTRICTIONS

§ 156.035 R-1, SINGLE FAMILY RESIDENTIAL LOW DENSITY DISTRICT.

(D) Permitted accessory uses.

(5) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted.

(Ord. 134/94, passed 3-24-94; Am. Ord. 332, passed 1-16-03; Am. Ord. 483, passed 6-16-21; Am. Ord ####, passed ##-##-##)

§ 156.036 R-2, ONE AND TWO FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT.

(D) Permitted accessory uses.

(5) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted.

(Ord. 134/94, passed 3-24-94; Am. Ord. 99-2, passed 7-15-99; Am. Ord. 332, passed 1-16-03; Am. Ord. 453, passed 7-18-19; Am. Ord. 483, passed 6-16-21; Am. Ord. 519, passed 12-21-23; Am. Ord ####, passed ##-##-##)

§ 156.037 R-3, MULTIPLE FAMILY RESIDENTIAL HIGH DENSITY DISTRICT.

(D) Permitted accessory uses.

(5) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted.

(Ord. 134/94, passed 3-24-94; Am. Ord. 332, passed 1-16-03; Am. Ord. 453, passed 7-18-19; Am. Ord. 516, passed 9-21-23; Am. Ord ####, passed ##-##-##)

§ 156.038 B-1, CENTRAL BUSINESS DISTRICT.

(E) Permitted accessory uses.

(5) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted.

(Ord. 134/94, passed 3-24-94; Am. Ord. passed 9-15-94; Am. Ord. 375, passed 6-12-08; Am. Ord. 390, passed 6-10-10; Am. Ord. 402, passed 6-13-13; Am. Ord. 453, passed 7-18-19; Am. Ord. 511, passed 6-20-23; Am. Ord ####, passed ##-##-##)

§ 156.039 B-2, GENERAL BUSINESS DISTRICT.

(E) Permitted accessory uses.

(5) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted.

(F) Uses requiring a conditional use permit.

(13) Community-scale solar energy systems

(Ord. 134/94, passed 3-24-94; Am. Ord. 453, passed 7-18-19; Am. Ord ####, passed ##-##-##)

§ 156.040 B-4, BUSINESS DISTRICT.

(E) Permitted accessory uses.

(6) Solar energy systems which are building-integrated, ground-mounted, or roof -mount.

(Ord. 134/94, passed 3-24-94; Am. Ord. 453, passed 7-18-19; Am. Ord ####, passed ##-##-##)

§ 156.041 HG-1, HEALTH CARE AND GOVERNMENT BUILDING DISTRICT.

(D) Permitted accessory uses.

(6) Community-scale solar energy systems

(Ord. 134/94, passed 3-24-94; Am. Ord. 453, passed 7-18-19; Am. Ord ####, passed ##-##-##)

§ 156.042 I-1, LIGHT INDUSTRIAL DISTRICT.

(E) Permitted accessory uses.

(5) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted.

(F) Uses requiring a conditional use permit.

(6) Community-scale solar energy systems

(Ord. 134/94, passed 3-24-94; Am. Ord. 453, passed 7-18-19; Am. Ord. 492, passed 4-21-22; Am. Ord ####, passed ##-##-##)

GENERAL REQUIREMENTS

§ 156.064 SOLAR ENERGY SYSTEMS

(A) Purpose and Applicability. It is the purpose of this section to provide standards and requirements for the operation, siting, design, appearance, construction and use of solar energy systems in order to encourage solar energy systems in the city while protecting the general welfare of the public. Standards for the regulation of solar energy systems are based on the following two types:

(1) Accessory solar energy systems refer to solar collection systems that capture energy from the sun and convert it into electrical or thermal power primarily for on-site use. These systems can serve as a primary or additional power source for residential, commercial, or industrial structures, and any excess energy can be fed back into the electric grid. Accessory solar energy systems include building-integrated, ground-mounted, and roof-mounted solar energy systems as defined in Section 156.006

(2) Community-scale solar energy systems are designed to generate electricity on a larger scale, often for commercial or community-wide purposes as defined in Section 156.006.

(B) General standards for all solar energy systems.

(1) Exterior electrical and communication lines shall be buried below the surface of the ground when possible.

(2) All systems shall comply with all City and state building and electrical codes and permitting requirements.

(3) The property owner shall notify the electrical utility where the solar system is connected to the electrical utility system.

(4) Lot Coverage – Ground-mounted and community-scale solar energy systems are exempt from lot coverage requirements if the soil under the system is maintained in vegetation and not compacted.

(5) If the solar collector system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities by no later than 90 days after the end of the 12-month period.

(6) Solar access easements may be filed consistent with Minnesota State Code 500.30. Any property owner may purchase an easement across nearby properties to protect access to sunlight. The easement is purchased or granted by owners of nearby properties and can apply to buildings, trees, or other structures that would diminish solar access.

(C) Accessory solar energy systems.

(1) Permitted accessory use – Building-integrated, ground-mounted and roof-mount solar energy systems are a permitted accessory use in all zoning districts where structures of any sort are allowed, subject to certain requirements as set forth below.

(2) Height – Accessory Solar energy systems must meet the following height requirements:

(a) Building- or roof- mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to the zoning district's height standards in the district in which the system is located as building-mounted mechanical devices or equipment. In the district in which the system is located.

(b) Ground- or pole-mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt.

(3) Property line setback – Solar energy systems must meet the principle structure setback for the zoning district with the lot on which the system is located, except as allowed below.

(a) Roof- or building-mounted solar energy systems – The collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side-yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings. Under no circumstance may the solar energy system or any appurtenances extend past the property line or into public right of way.

(b) Ground-mounted Solar Energy Systems – Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems. Under no circumstance may the solar energy system or any appurtenances extend past the property line or into public right of way.

(D) Community scale solar energy systems.

(1) Conditional Use Permit Requirement. A community-scale solar energy system may be a permitted use in the B-2 General Business District and I-1 Light Industrial zoning districts upon approval and issuance of a conditional use permit subject to certain requirements as set forth here within.

(2) Height – Community scale solar energy systems shall not exceed 15 feet in height.

(3) Setbacks – Community-scale solar arrays must meet the property line setback for the principle buildings or structures in the district in which the system is located.

(4) Off-site Glare Impact Reduction – Measures to minimize nuisance glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.

(5) Site plan required. A site plan of existing and proposed site conditions and other information necessary demonstrate compliance with the applicable provisions of this section is a required submittal for the application of a conditional use permit.

CITY ADDED IN

(6) Payment In Lieu of Taxes – Notwithstanding that Minnesota Statutes Section 272.02, Subd. 24 (or its successor) classifies real property upon which a solar energy generating system

is located that is used primarily for solar energy production (subject to the production tax under Minnesota Statutes Section 272.0295) as class 3a, the city may require the applicant to enter into a Payment In Lieu of Taxes Agreement to compensate the city for any prospective tax revenue that may be lost due to such reclassification.

Adopted by the City Council of the City of Milaca this ___ day of _____. 2024

_____

Mayor Dave Dillan

ATTEST:

_____

Tammy Pfaff, City Manager

First Reading _____

Second Reading_____

Published_____

Planning Report

Date: **May 22, 2024**

To: **Milaca Planning Commission**

From: **Phil Carlson, AICP and Will Hutchings, AICP; Stantec**

Request: **Zoning Ordinance Text Amendment for Solar Energy Systems**

INTRODUCTION

The City of Milaca Zoning Administrator is initiating a Zoning Ordinance Text Amendment to provide standards and regulations for the use of solar energy systems in the community. This amendment is at the request of the Planning Commission and is in accordance with Section 156.150 – Zoning Amendment and Conditional Use Permits of the City of Milaca Code of Ordinances.

Although solar energy systems are not specifically identified, the proposed ordinance amendment aligns with several goals and objectives of the 2007 Milaca Comprehensive Plan related to land use incompatibilities, urban design, development review processes and the protection of and efficient utilization of resources.

PEER COMMUNITY RESEARCH

We researched and compared several Minnesota communities to identify the elements of a zoning ordinance that are commonly regulated and to provide a comparison of the how each community has chosen to regulate each. A matrix detailing the findings of that research is attached to this memo. In addition, we referred to guidance provided by the American Planning Association and the Great Plains Institute for best practices and model ordinances within Minnesota.

TYPES OF SOLAR ENERGY SYSTEMS

A Solar Energy System refers to any system designed for the generation or storage of electricity from sunlight, or the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating. Based on research conducted, there are two broad categories of solar energy systems.

Community Solar Energy Systems: These are typical stand-alone, commercial solar collection systems that are meant to primarily feed into the electricity grid providing energy for off-site use.

Figure 1: A photo of a Community Solar Energy System (Source: ysgsolar.com

Re: Zoning Ordinance Text Amendment – Solar Energy Systems

Accessory Solar Energy Systems:
These serve as a primary or additional power source for residential, commercial, or industrial structures, and any excess energy can be fed back into the electric grid. Accessory solar energy systems include building-integrated, ground-mounted, and roof-mounted solar energy systems:

Building Integrated refers to those solar systems that integral part of a principal or accessory building as either a architectural or structural component of a building such as canopy, roofing materials, windows, or cladding.

Ground Mounted refer to those solar systems that are mounted on a rack or pole that rests or is attached to the ground (excluding those community solar energy systems) and are accessory to the principal use.

Roof Mounted refers to those systems that are mounted on a rack that is fastened to or ballasted on a structure roof and are accessory to the principal use,

Figures 2 – 4:
Top: Building Integrated System (Source: imobipro.com)
Middle: Ground Mounted System (Source: unboundsolar.com)
Bottom: Roof Mounted System (Source: southern-energy.com)

COMMON ZONING CONSIDERATIONS
Most zoning considerations related to solar energy systems focus on use allowances, dimensional standards including setbacks and height, access to sunlight protection and impervious lot coverage, Some may detail additional requirements such as application submittal requirements, glare reduction and overall size.

Generally, best practices are to allow accessory solar energy systems as a per-right accessory use with associated use standards and reserve use of Community Solar Energy systems as stand alone uses in commercial and industrial areas.

DRAFT ORDINANCE
A copy of the draft ordinance is attached which outlines zoning district use allowances for both community scale and accessory solar energy systems, along with operational, dimensional lot coverage, utility company notification standards for each as well as Minnesota State statutes that permit the owner of the solar energy system to obtain solar access easements from adjoining properties to protect access to the solar system from any structure, building or vegetation that may cast as shadow on the solar energy system that may affects its productivity.

Re: Zoning Ordinance Text Amendment – Solar Energy Systems

ZONING AMENDMENTS

The Milaca Zoning Code in Sect. 156.150(D) gives guidance to the Planning Commission on zoning amendments:

> (D) The Planning Commission shall consider possible adverse effects of the proposed amendment or conditional use. Its judgment shall be based upon, but not limited to, the following factors, with our notes on each:
>
> (1) Relationship to the city's growth management system/Comprehensive Plan;
>
> Although solar energy systems are not specifically identified, the proposed ordinance amendment aligns with several goals and objectives of the 2007 Milaca Comprehensive Plan related to land use incompatibilities, urban design, development review processes and the protection of and efficient utilization of resources.
>
> (2) The geographical area involved;
>
> The area and context have been considered when establishing the draft ordinance.
>
> (3) Whether the use will tend to or actually depreciate the area in which it is proposed;
>
> The solar energy system as an accessory use in all districts and as a principal, commercial and conditional use in specific zoning districts would not likely depreciate the area.
>
> (4) The character of the surrounding area;
> The proposed zoning ordinance text amendment will not have any substantial effect on the character of the community, zoning districts and adjacent properties.
>
> and
>
> (5) The demonstrated need for the use.
> Continued interest and increase in the use of solar energy systems has necessitated the need for this zoning ordinance text amendment to provide fair and reasonable standards for such regulations in the City of Milaca.

Re: Zoning Ordinance Text Amendment – Solar Energy Systems

RECOMMENDATION
We recommend approval of draft Zoning ordinance text amendment for the regulation of solar energy systems.

Findings of Fact for Approval

1) The proposed zoning ordinance text amendment guides the use of solar energy systems in all residential, commercial, and industrial zoning districts,

2) The proposed zoning amendment helps to regulate desirable land use patterns.

3) The City's Comprehensive Plan includes several goals and objectives that support the desire and need to provide regulations in order to reduce land use incompatibilities enhance urban design, provide for development review processes and to aid in the protection of and efficient utilization of resources.

4) The proposed zoning ordinance text amendment is in compliance with known with other local, state and federal laws pertaining to its use.

5) There has been a documented interest in solar energy systems and continued interest necessitates a demonstrated need for fair and reasonable standards for the use.

6) The request satisfies the factors for a zoning ordinance text amendment Section 156.150(D) of the Milaca Zoning Code.

The City would be within its authority to deny the zoning ordinance text amendment, but there would need to be Findings of Fact supporting the denial, which might include the following.

Findings of Fact for Denial

1) The proposed zoning ordinance text amendment guides the use of solar energy systems in all residential, commercial, and industrial zoning districts,

2) The proposed zoning amendment does not **sufficiently help** to regulate desirable land use patterns.

3) The City's Comprehensive Plan lacks any specific goals and objectives related to solar energy systems.

PLANNING COMMISSION MOTION TEMPLATES
The Planning Commission recommends to the City Council, which has final authority to approve or deny the rezoning request. Options for Planning Commission recommendations and motions might include the following, with Findings of Fact:

Re: Zoning Ordinance Text Amendment – Solar Energy Systems

- *Approval*
  The Planning Commission recommends approval of the zoning ordinance text amendment for sections 156.006 Definitions; 156.035 R-1, Single Family Residential Low Density District; 156.036 R-2, One and two family residential medium density district; 156.037 R-3, Multiple family residential high density district; 156.038 B-1, Central business district; 156.039 B-2, General business district; 156.040 B-4, Business district; 156.041 HG-1, Health care and government building district; 156.042 I-1, Light industrial district and creating section 156.064 Solar energy systems of the City of Milaca Code of Ordinances relating to solar energy systems including associated definitions, zoning district allowed uses, and use requirements. with the Findings of Fact in the Planner's report of May 22, 2024 [or as revised].

- *Denial*
  The Planning Commission recommends that the City Council deny the zoning ordinance text amendment for sections 156.006 Definitions; 156.035 R-1, Single Family Residential Low Density District; 156.036 R-2, One and two family residential medium density district; 156.037 R-3, Multiple family residential high density district; 156.038 B-1, Central business district; 156.039 B-2, General business district; 156.040 B-4, Business district; 156.041 HG-1, Health care and government building district; 156.042 I-1, Light industrial district and creating section 156.064 Solar energy systems of the City of Milaca Code of Ordinances relating to solar energy systems including associated definitions, zoning district allowed uses, and use requirements. with the Findings of Fact in the Planner's report of May 22, 2024 [or as revised.

505.20 Solar Energy Generation. Solar farms and gardens are composed of multiple solar panels on multiple mounting systems and are considered the only and primary use of a parcel. Solar farms and gardens shall meet the minimum following requirements:

A. Minimum parcel size of ten (10) acres.

B. Maximum parcel size of forty (40) acres.

C. Must be located within one-quarter (1/4) mile of a transmission line.

D. Panels must meet the structure setback of the underlying zoning district.

E. Power and communication lines which connect panels located within the parcel shall be buried underground.

F. Vegetation under panels shall be native and support wildlife habitat.

G. The applicant/owner shall maintain, in favor of the County, a financial guarantee in the form of a letter of credit, certificate of deposit, insurance bond or cash in the amount equal to one-hundred twenty-five (125) percent of the project cost to ensure proper disposal at the end of the solar farm or garden's useful life. The amount of the financial guarantee shall be adjusted annually for inflation or cost of living increases.

H. The applicant/owner of the solar farm or garden shall immediately notify the County with the ownership or management of the solar farm or garden changes.

I. Other requirements may be added at the recommendation of the Planning Commission after a public hearing

Grow Solar

Local Government Solar Toolkit

PLANNING, ZONING, AND PERMITTING

Minnesota

Grow Solar

Local Government Solar Toolkit

The Grow Solar Local Government Toolkit is a multi-state collaborative project funded by the U.S. Department of Energy.

Acknowledgment: The information, data, or work presented herein was funded in part by the Office of Energy Efficiency and Renewable Energy (EERE), U.S. Department of Energy, under Award Number DE-0006544.

Contact Information

If you have any questions regarding planning, zoning, and permitting for solar energy please contact:

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Great Plains Institute
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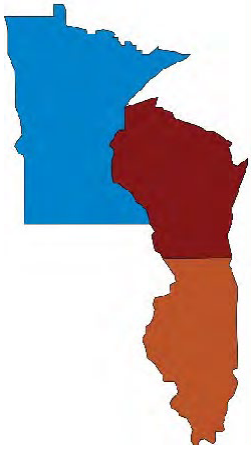
GREAT PLAINS INSTITUTE Better Energy. Better World.

Grow Solar

Solar Toolkit Summary

Planning, Zoning, and Permitting

As part of the Grow Solar Partnership, toolkits have been assembled to equip local governments in Minnesota, Wisconsin, and Illinois with information regarding solar development as it relates to planning, zoning, and permitting. The purpose of these toolkits is to provide resources that will assist communities in addressing barriers to solar energy installations in a manner tailored to each community's needs. The following is a summary of materials that can be found in each of the toolkits.



Solar Overview

State Solar Policy Summary

Solar policy plays an important role in the development of solar energy. This document includes highlights from each state in both the regulatory arena as well as financial incentives that are available to support solar. Additionally, the State Solar Policy Summary includes statutes that enable local governments to regulate solar in planning, zoning, and permitting. This document can be used as reference guide specific to each state.

Three State Regional Analysis

The Three State Regional Analysis looks at the 3-state region of Minnesota, Wisconsin, and Illinois to identify similarities and differences in state law and typical practices in permitting, planning, and zoning for solar energy development. This document serves as the foundation for the toolkits that were developed for each state. Using this analysis, national best practices were modified so that they could be integrated into each state's regulatory framework insofar as it relates to solar development.

Planning

Comprehensive Plan Guide

The Comprehensive Plan Guide is a tool communities can use when they update their land use plans. This document outlines considerations that communities should make and identifies elements that allow for clear priorities around solar energy objectives. Model language is included to help local governments see the types of goals and policies they could include in their plans.

Zoning

Model Ordinances

All local governments with the authority to regulate zoning should include solar development in their zoning code to recognize the value of solar and alleviate any local concerns. These model ordinances offer language to address a variety of solar land uses, tailored to local conditions and priorities.

Permitting

Local Government Permitting Checklist

Providing a clear and predictable permitting process saves time and money for both contractors and municipalities. Using national best practices, a template has been created that can be adapted locally, with notes on where municipalities might choose to modify standards based on varying circumstances.

Grow Solar

State Solar Policy Summary

Minnesota

Minnesota has seen interest in solar grow through changes in policy, decline in costs, and the availability of various incentives. Because solar development is rapidly increasing in the state, local governments are seeing requests for Plan and zoning text amendments, permits, and site reviews. The following summarizes state policy that that is driving the market and enabling local government authority.

Solar Policy

In 2013, the State Legislature passed a suite of laws that helped forecast an optimistic outlook for solar in Minnesota. These statutes are provided here:

1. Minnesota Statute 216B.1691, subd. 2f. Requires Minnesota's public utilities to generate or procure 1.5 percent of the utility's retail electricity sales from solar energy.
2. Minnesota Statute 116C.7792. Xcel Energy must provide $5 million in financial incentives each year for 5 years for systems 20 kW or less.
3. Minnesota Statute 216B.1641 establishes the Xcel Energy Community Solar Garden Program.

Prior to the above legislation, the State passed 216B.1691 Renewable Energy Objectives, which requires 25% of total retail electricity sales to be generated from renewable energy sources by 2025. This standard alone did not spur solar development, but helped open the door to a broader mix of renewable energy.

Solar Market

Minnesota has a number of incentives to help spur and finance solar development to reach state goals and mandates. Available incentives are listed here:

- PACE (216C.436) financing for commercial applications
- Xcel Energy's Solar Rewards for systems under 40 KW.
- Additionally, the federal tax credit of up to 30% is being phased out by the end of 2021.

Currently, Minnesota has approximately 1.6 GW of installed solar capacity. That number is expected to grow to over 6 GW in the next 10 years.

Barriers to Solar Deployment

There has already been conflict between solar development and other land uses and community resources. This is particularly true for large solar farms or gardens. Many local governments have not addressed solar development in existing policies.

Statutory Context – Local Authority

Enabling statutes for addressing solar resources at the local level are summarized below.

1. **Solar Zoning**
   a. Minnesota Statute 462.357 Subd.1, (cities) 394.25 Subd.2 (counties) . . . a municipality may by ordinance regulate on the earth's surface, in the air space above the surface, and in subsurface areas, . . . access to direct sunlight for solar energy systems . . .
2. **Metropolitan Land Planning Act**
   a. Minnesota Statute 473.859 Subd.2 Land Use Plan. (b) A land use plan shall contain . . . an element for protection and development of access to direct sunlight for solar energy systems.
3. **Enabling Solar Easements**
   a. Minnesota Statute. 500.30 Subd. 3. Solar and Wind Easements. Allows the purchase and holding of easements protecting access to solar and wind energy.
4. **Allowance for Solar Variance**
   a. Minnesota Statute 394.25 Subd. 7, 462.357 Subd.6(2) Variances; Practical Difficulties. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan […] Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems […].
5. **Enabling solar access in subdivision regulation**
   a. Minnesota Statute 462.358 Subd. 2a. Official Controls: Subdivision Regulation; Dedication. The regulations may prohibit, restrict or control development for the purpose of protecting and assuring access to direct sunlight for solar energy systems.
6. **Power Plant Siting**
   a. Minnesota Statute 216E.021. Solar Energy System Size Determination. The alternating current nameplate capacity of one solar energy generating system must be combined with the alternating current nameplate capacity of any other system that:
      i. Is constructed within the same 12-month period […]
      ii. Exhibits characteristics of being a single development […]
   b. Minnesota Statute 216E.05 Subdivision 1. Local Review. (a) […] an applicant . . . shall have the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project […]
   c. Minnesota Rule 7850.4400 Subp. 4. Prime Farmland Exclusion. No large electric power generating plant site may be permitted where the developed portion of the plant site […] includes more than 0.5 acres of prime farmland per megawatt of net generating capacity […][1]
7. **Property Taxes**
   a. Minnesota Statute 272.02 Subd. 24. Exempt Property. Solar Energy Generating Systems. Personal property consisting of solar energy generating systems […] is exempt.
      i. Principal uses (solar farms or gardens) – the land on which the system is located shall be classified as class 3a property.
      ii. Accessory uses – the solar energy system is disregarded.
   b. Minnesota Statute 272.0295. Solar Energy Production Tax. Applies only to systems with a capacity greater than 1MW and establishes a tax rate of $1.20 per megawatt hour. The production tax is paid to the county in which the system is located.
8. **Beneficial Habitat Standard for Solar Farms**
   a. Minnesota Statute 216B.1642 encourages solar site design and management practices that provide native pollinator habitat and reduce stormwater runoff. Creates a technical standard for beneficial habitat, administered by the Board of Soil and Water Resources.

[1] The Department of Agriculture released a stakeholder study and the Department of Commerce released a guidance document on the relation of solar to the prime farmland exclusion rule.

Grow Solar

Solar in Comprehensive Planning

Purpose

Comprehensive plans are the foundational policy document reflecting a community's priorities and values regarding development and local resources. Solar energy resources are an increasingly valuable local resource. Solar development can bring environmental and economic benefits to a community through clean energy production, creation of local jobs and revenue, and improved property values. Communities are acknowledging this valuable resource and incorporating support and guidance for solar energy development into comprehensive plans, sending a strong message of commitment for sustained growth in the solar energy sector.

Communities are not, however, always familiar with the characteristics of solar resources and solar land uses. This document outlines considerations that communities should make and identifies elements that allow for clear priorities around solar energy objectives. Identifying how solar development can benefit the community will help decision-makers determine how solar resources and investments are integrated into the community in a way that balances and protects competing development or resources.

Downtown Solar Resource Map. Rochester, MN

Considerations

When addressing solar development in a comprehensive plan, it is important to acknowledge what makes solar work for a community as well as the inherent conflicts that may arise. Any comprehensive plan that includes a solar component should:

1. Address the solar resource and the different land use forms that solar development can take
2. Acknowledge the multiple benefits of solar development
3. Guide decision-makers on optimizing opportunities when solar development might conflict with other resources or land use forms

Each of these components can help a community identify how they wish to include solar as a resource and to be able to reasonably justify why and where solar development is supported.

Additionally, in Minnesota, The Metropolitan Land Planning Act (Minnesota Statute 473.859 Subd.2) requires communities in the metro area to include solar access protection in comprehensive plans. The statute states:

> **A land use plan shall contain a protection element, as appropriate, […], and an element of protection and development of access to direct sunlight for solar energy systems.**

The local landscape (e.g., topography, on-site obstructions, obstructions on adjacent land, potential future obstructions) defines whether or not a given site has a good solar resource. An adequate solar resource is a site that is unshaded for at least 6 hours a day, both now and into the future. Communities can map their solar resource using LiDAR data that is frequently available in urban areas, and in some states even in rural areas. Such a map can allow the community to measure the size of their "solar reserves" identify areas with good and poor resources for prioritizing development in a manner consistent with other land uses, and even distinguish between opportunities for rooftop and ground-mount solar development opportunities. Minnesota has geographic solar resource data available at 1-meter resolution across virtually the entire state. GIS data will be available for downloading soon.

In addition to measuring and recognizing the solar resource, communities should recognize that a variety of methods exist to capture the energy and provide economic value. There are several different types of solar installations a community will want to consider: rooftop, accessory ground-mount, and principal ground-mount. A community can use the comprehensive plan to determine which of these technologies to support and/or promote.

Rooftop Solar, CERTs

Communities can realize a number of benefits through solar development, including environmental, energy production, and economic development. Environmental benefits include helping meet local air quality or climate protection goals. Communities with renewable energy or energy independence goals can better achieve these through explicit support of solar energy development. Economically, solar development creates construction jobs for a variety of trades, financially benefits those who install systems on their properties with lower energy bills, and increases the property value of buildings within the local housing market.

Ground Mount System, CERTs

Like any development, solar may come into conflict with other land uses, and solar resources are often co-located with other important local resources. Recognizing these issues in the comprehensive plan can help to mitigate future problems.

Solar Farm, CERTs

Some conflicts to consider include:

- Agricultural practices
- Urban forests
- Historic resources
- Airport control towers
- Natural areas
- Future housing or commercial development

Each community is different and may see conflicts arise that are not listed here. Identifying and addressing those conflicts in comprehensive planning will need to happen at the community level.

Elements

Common features of a comprehensive plan include a discussion of existing conditions, a presentation of desired outcomes in the form of a vision and goals, and an inventory of policies and actions that support those goals. The following model language are examples of what could be incorporated into a comprehensive plan.

Understanding the potential importance of a community's solar resource requires some knowledge of both the availability of the local solar resource and the community's existing energy use. Using a solar map, like the one described above, is a useful way to demonstrate the solar potential across the area. Identifying the areas with the greatest potential can help the community plan and prepare for the best sites to locate solar investment and to achieve the goals outlined in the plan. Understanding the nature of the community's energy use – data that can be obtained from the community's utility providers – can put the solar resource within the appropriate economic and use intensity context. For instance, most communities have sufficient solar resources to theoretically meet a substantial portion of their electric energy consumption, even if only the best resources are used. Minnesota's Local Government Project

Community Rooftop Solar Resource. Rochester, MN

for Energy Planning (LoGoPEP) is currently working to make the process of integrating solar into community energy plans easier. LoGoPEP, a US Department of Energy funded project that began in 2016, is working to provide communities with the tools they need to integrate various clean energy and efficiency strategies together. Using these tools, cities will be able to measure the role that solar could play in reducing CO2 emissions while optimizing city resources.

Among communities that have added renewable energy goals and objectives to their plans, common themes include encouraging solar site design for new subdivisions, improving the energy performance of municipal facilities, removing barriers and creating incentives for small-scale or "distributed" installations, and capturing economic development opportunities associated with renewable energy investment.

Examples of goals may be:

> **Goal 1:** Encourage local production of solar energy on new residential and commercial construction.
>
> **Goal 2:** Maximize the production of solar photovoltaic energy to the extent feasible, while minimizing potential biological, agricultural, visual, and other environmental impacts.

In Comprehensive Plans, policies are statements of intent with enough clarity to guide decision-making. Policy statements should be tied to the desired goals and set a clear path to action. Examples of policies are:

> **Policy 1:** Establish clear guidelines for solar ready development in all zoning districts where solar is a permitted use.
>
> **Policy 2:** The City supports the State's effort to achieve the Renewable Portfolio Standard (RPS), which requires utilities to generate 25% of electricity from renewable energy sources, and the State's solar energy goal of having sufficient solar generation to meet 10% of electric use by 2030.

Actions are more specific statements that direct programs, regulations, operational procedures, or public investments. Action statements are intended to guide the implementation of the stated policies. Examples of action statements follow:

> **Action 1:** Provide incentives for developers who build solar-ready residential and commercial structures.
>
> **Action 2:** The City should complete a study to identify opportunities for investment in solar energy resources on public buildings and lands.

Additional Resources:

BWSR Habitat Friendly guidance - https://bwsr.state.mn.us/minnesota-habitat-friendly-solar-program

Center for Pollinators in Energy - https://fresh-energy.org/beeslovesolar/

Farmers' Guide to Solar and Wind Energy in Minnesota - http://www.flaginc.org/wp-content/uploads/2019/04/Farmers%E2%80%99-Guide-to-Solar-and-Wind-Energy-in-Minnesota-April-2019.pdf

Google's Project Sunroof solar mapping tool https://www.google.com/get/sunroof/data-explorer/

Illinois Planning Authority for Protection Solar Resources ((65 ILCS 5/11-12-5) (from Ch. 24, par. 11-12-5) http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=006500050K11-12-5

Iowa Smart Planning Principles, Statute, Guidance document on-line. https://rio.urban.uiowa.edu/sites/rio/files/Iowa_Smart_Planning_Overview_0.pdf

Local Government Planning for Energy Project (LoGoPEP): http://www.regionalindicatorsmn.com/energy-planning

Metropolitan Council Local Planning Handbook

Metropolitan Council Solar Planning Requirement Factsheet https://metrocouncil.org/Handbook/Files/Resources/Fact-Sheet/RESILIENCE/Planning-for-Solar.aspx

Minnesota Solar Planning Requirement – Metropolitan Land Planning Act 473.859. Subd.2b

Model RFP Language to incorporate energy into comprehensive plans: http://www.regionalindicatorsmn.com/customer_media/EnergyRFP2.pdf

Planning Advisory Service Essential Info Packets, Planning and Zoning for Solar Energy https://www.planning.org/pas/infopackets/eip30.htm

Planning for Solar Energy, American Planning Association https://www.planning.org/publications/report/9117592/

University of Minnesota solar mapping tool http://solar.maps.umn.edu/

All photos are courtesy of the **Clean Energy Resources Teams**

Model Solar Zoning for Minnesota Municipalities

Every Minnesota community should have zoning language that addresses solar energy systems. Solar installations are a form of development, and development regulations, including zoning and subdivision ordinances, need to incorporate the variety of development forms that solar installations can take. Moreover, incorporating solar land uses and development in the ordinances recognizes that the community's solar resources are a valuable asset with economic and environmental value that property owners will want to capture. Solar development regulation can help educate staff and community, as well as alleviate potential conflicts or confusion.

Minneapolis Solar Resource Website

Minnesota state statutes leave most solar development regulation to local governments; the State does not pre-empt or guide solar development except for enabling local governments to take certain options. Most importantly, Minnesota law leaves to local governments the challenge of defining solar "rights," including when property owners have an as-of-right solar development opportunity, when solar rights trump or are trumped by other property rights, and how or whether to protect solar installations from trees or buildings on adjacent properties.

Development regulations that are "solar ready" will have the following characteristics:

- Address all the types of solar land uses that the community is likely to see
- Result in an as-of-right solar installation opportunity for at least accessory use solar and where possible for principal use solar development
- Balance between solar resources and other valuable local resources (trees, soils, historic resources) in the development process

All zoning ordinances include certain basic elements that can, if not considered in the context of solar resources and technologies, create inadvertent barriers to solar development. Basic zoning elements include:

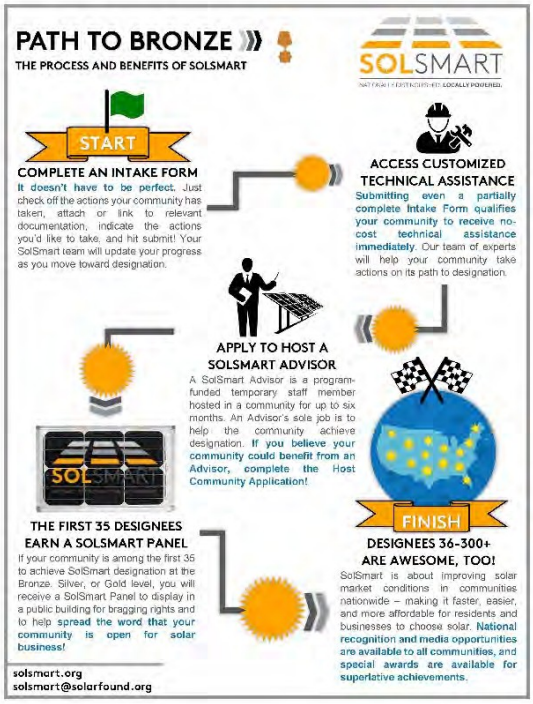
1. **Use.** Which land uses are permitted, which are conditional, which are prohibited in each zoning district? Should the community allow solar farms in industrial districts, or ground-mount accessory solar in the backyards of residential districts?
2. **Dimensional Standards.** What is the minimum or maximum size of building lot, and where on the lot can development be placed? If the solar resource is only viable in the front yard, or only available above the peak of the roof because of the neighbor's trees, should the community allow solar development in those locations? Most communities allow some exceptions to height and setback requirements – does solar meet the same standard to qualify for an exception?
3. **Coverage and Bulk**. How much of the property can be developed consistent with the preferred development pattern for that zoning district? Should solar panels in the backyard count as an accessory structure if the community limits the number of accessory buildings in residential neighborhoods? Does the surface of a solar collector count as impervious surface for storm water standards?


Photo Credit: Great Plains Institute

Some communities' zoning ordinances have more advanced elements that should also be addressed to remove barriers and to take advantage of incentives. Examples include:

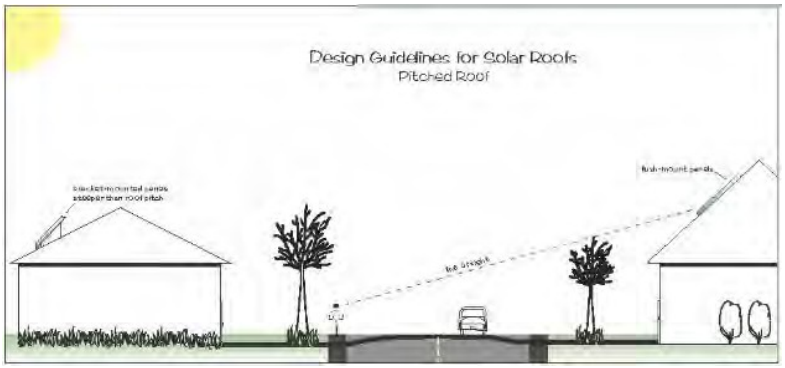
- **Design standards** - Are community aesthetic or character standards part of local regulations? How can solar development fit into areas where the community has set design goals?
- **Solar Easements or Cross-Property Protection.** Does local regulation protect the long-term solar resource when someone makes a long-term investment in solar infrastructure? Is there a public purpose in protecting solar access across property lines?
- **Home Owners Associations.** Does the community have an interest in ensuring solar development rights in common interest communities?
- **Integrating with Other Processes.** How does solar development conflict or support agricultural protection, historic preservation, urban forests, urban expansion areas, municipal utility goals?

Many cities and counties in Minnesota have adopted solar development regulations based on the State of Minnesota's model solar ordinances. The ordinances were originally developed as part of the State's package of model ordinances for sustainable development *(From Policy to Reality: Model Ordinances for Sustainable Development*), and subsequently evolved with the development of Minnesota's solar markets through the Minneapolis Saint Paul Solar Cities program, the Minnesota Solar Challenge, and the Grow Solar Partnership. The most recent version incorporates recent changes in Minnesota statutes, the rapid development of the community solar garden market, and the development of the national SolSmart recognition program for "solar-ready" communities. The model ordinance provides language that meets SolSmart standards for solar-ready zoning and enables certification.



Minnesota's model solar ordinance, provided below, offers sample ordinance language to address a variety of solar land uses and local circumstances. The models also provide explanatory text and suggestions for altering the language to tailor the ordinances to local conditions and priorities.

The seven principles for solar-ready zoning include:
1. Create an as-of-right solar installation path for property-owners.
2. Limit regulatory barriers to developing solar resources.
3. Define appropriate aesthetic standards.
4. Address cross-property solar access issues.
5. Address principal solar uses.
6. Consider "solar-ready" design.
7. Consider regulatory solar development incentives.



The Resources and Reference Material section at the end of the document provides additional national and state examples and materials to guide local decision-making on making development regulation "solar ready."

Resources and Reference Material:

- Minneapolis Solar Zoning Ordinance: http://www.minneapolismn.gov/www/groups/public/@cped/documents/webcontent/convert_285502.pdf
- Saint Paul Accessory Solar Ordinance, Section 65.921 Saint Paul Municipal Ordinance
- Stearns County Solar Standards, Section 6.51 County Zoning Ordinance https://co.stearns.mn.us/Portals/0/docs/Ordinances/ord439.pdf
- SolSmart Program (national best practices and sola-ready recognition), http://www.gosparc.org/
- National American Planning Association, *Planning for Solar Energy,* https://www.planning.org/publications/report/9117592/
- National American Planning Association, Planners Advisory Service Essential information packet, https://www.planning.org/pas/infopackets/eip30.htm
- National Renewable Energy Lab, Best Practices in Solar Zoning, State and Local Governments Blog, www.nrel.gov/tech_deployment/state_local_governments/blog/best-practices-in-zoning-for-solar
- University of North Carolina, *Planning and Zoning for Solar Energy*, http://sogpubs.unc.edu/electronicversions/pdfs/pandzsolar2014.pdf
- Solar ABCS, *A Comprehensive Review of Solar Access Law in the United States,* http://www.solarabcs.org/about/publications/reports/solar-access/pdfs/Solaraccess-full.pdf
- The Solar Foundation, *A Beautiful Day in the Neighborhood: Encouraging Solar Development through Community Association Policies and Procedures,* http://www.thesolarfoundation.org/a-beautiful-day-in-the-neighborhood-encouraging-solar-development-through-community-association-policies-and-processes/
- National Alliance of Preservation Commissions, *Sample Guidelines for Solar Systems in Historic Districts*, http://www.preservationnation.org/information-center/sustainable-communities/buildings/solar-panels/additional-resources/NAPC-Solar-Panel-Guidelines.pdf
- National Trust for Historic Preservation, Installing Solar Panels on Historic Buildings, https://nccleantech.ncsu.edu/wp-content/uploads/Installing-Solar-Panels-on-Historic-Buildings_FINAL_2012.pdf

Model Solar Ordinance – Minnesota

Introduction

Minnesota's solar energy resources are high quality and cost effective—as good as many states to our south and consistently available across the entire state. As solar energy system components have become more efficient and less costly, an increasing number of solar energy systems have been installed in Minnesota. Market opportunities for solar development have dramatically increased in Minnesota over the last five years, such that communities must now address solar installations as land use and development issues. Solar energy components continue to improve in efficiency and decline in price; large-scale solar energy is expected to become the least expensive form of electric energy generation within a few years, surpassing wind energy and natural gas in levelized cost of energy.

Model Solar Energy Standards

This ordinance is based on the model solar energy ordinance originally created for Solar Minnesota, under a Million Solar Roofs grant from the U.S. Department of Energy. It has been substantially updated several times to reflect address additional issues and opportunities for Minnesota communities and the evolving solar industry, last updated May 2020

But solar energy is much more than just low-cost energy generation. Households and businesses seeking to reduce their carbon footprint see solar energy as a strong complement to energy efficiency. Agricultural producers see their solar energy as an economic hedge against price volatility in commodity crops. Utilities see solar's declining cost, high reliability, and free fuel as a means to put downward pressure on electric rates. Corporate, institutional, and municipal buyers are actively acquiring carbon-free solar generation to meet climate and clean energy goals. And innovative solar site designs are capturing habitat and water quality co-benefits by using solar with habitat-friendly ground cover to restore eco-system functions.

Solar Energy Issues

Local governments in Minnesota are seeing increasing interest by property owners in solar energy installations and are having to address a variety of solar land uses in their development regulation. Given the continuing cost reductions and growing value of clean energy, solar development will increasingly be a local development opportunity, from the rooftop to the large-scale solar farm. Three primary issues tie solar energy to development regulations:

1. *Land use conflicts and synergies.* Solar energy systems have few nuisances. But solar development can compete for land with other development options, and visual impacts and perceived safety concerns sometimes create opposition to solar installations. Good design and attention to aesthetics can address most concerns for rooftop or accessory use systems. Good siting and site design standards for large- and community-scale solar can similarly resolve conflicts and create co-benefits from solar development, such as restoring habitat, diversifying agricultural businesses, and improving surface and ground waters.

2. *Protecting access to solar resources.* Solar resources are a valuable component of property ownership. Development regulations can inadvertently limit a property owner's ability to access their solar resource. Communities should consider how to protect and develop solar resources in zoning, subdivision, and other development regulations or standards.

3. *Encouraging appropriate solar development.* Local government can go beyond simply removing regulatory barriers and encourage solar development that provides economic development, climate protection, and natural resources co-benefits. Local governments have a variety of tools to encourage appropriately sited and designed solar development to meet local goals.

Components of a Solar Standards Ordinance

Solar energy standards should:

1. *Create an as-of-right solar installation path for property-owners.* Create a clear regulatory path (an as-of-right installation) to solar development for accessory uses and - if appropriate - for principal uses such as large-scale solar and ground-mounted community shared solar installations.

2. *Enable principal solar uses.* Define where community- and large-solar energy land uses are appropriate as a principal or primary use, set development standards and procedures to guide development, and capture co-benefit opportunities for water quality, habitat, agriculture.

3. *Limit regulatory barriers to developing solar resources.* Ensure that access to solar resources is not unduly limited by height, setback, or coverage standards, recognizing the distinct design and function of solar technologies and land uses for both accessory and principal uses.

4. *Define appropriate aesthetic standards.* Retain an as-of-right installation pathway for accessory uses while balancing design concerns in urban neighborhoods and historic districts. Set reasonable aesthetic standards for solar principal uses that are consistent with other principal uses that have visual impacts.

5. *Address cross-property solar access issues.* Consider options for protecting access across property lines in the subdivision process and in zoning districts that allow taller buildings on smaller (urban density) lots.

6. *Promote "solar-ready" design.* Every building that has a solar resource should be built to seamlessly use it. Encourage builders to use solar-ready subdivision and building design.

7. *Include solar in regulatory incentives.* Encourage desired solar development by including it in regulatory incentives: density bonuses, parking standards, flexible zoning standards, financing/grant programs, promotional efforts.

Different Community Types and Settings

The model ordinance language addresses land use concerns for both urban and rural areas, and thus not all the provisions may be appropriate for every community. Issues of solar access and nuisances associated with small or accessory use solar energy systems are of less consequence in rural areas, where lot sizes are almost always greater than one acre. Large-scale and community- scale solar (principal solar land uses) are much more likely to be proposed in rural areas rather than developed cities. However, urban areas should consider where community- or large-scale solar can add value to the community and enable economic development of a valuable local resource. Rural communities should address rooftop and accessory ground-mounted development, although the standards used in this model are designed more for the urban circumstances.

Solar development is not one thing

Communities would not apply the same development and land use standards to an industrial facility and a single family home, merely because both are buildings. Community and large-scale solar development is a completely different land use than rooftop or backyard solar. Standards that are appropriate for large-scale solar may well be wholly inappropriate for rooftop solar and may unnecessarily restrict or stymie solar development opportunities of homes and business owners.

This ordinance includes language addressing solar energy as an accessory use to the primary residential or commercial use in an urban area and language for principal solar uses more typically seen in rural communities. Communities should address both types of solar development.

Model Ordinance

I. Scope - This article applies to all solar energy installations in Model Community.

II. Purpose - Model Community has adopted this regulation for the following purposes:

A. Comprehensive Plan Goals - To meet the goals of the Comprehensive Plan and preserve the health, safety and welfare of the community by promoting the safe, effective and efficient use of solar energy systems. The solar energy standards specifically implement the following goals from the Comprehensive Plan:

1. **Goal** – Encourage the use of local renewable energy resources, including appropriate applications for wind, solar, and biomass energy.

2. **Goal** – Promote sustainable building design and management practices to serve current and future generations.

3. **Goal** – Assist local businesses to lower financial and regulatory risks and improve their economic, community, and environmental sustainability.

4. **Goal** – Implement the solar resource protection element required under the Metropolitan Land Planning Act.

Comprehensive Plan Goals

Tying the solar energy ordinance to Comprehensive Plan goals is particularly important for helping users (both Planning Commission and community members) understand why the community is developing and administering regulation.

The language here provides examples of different types of Comprehensive Plan goals, and other policy goals that the community may have that are served by enabling and encouraging solar development. The community should substitute its policy goals for these examples.

If the Comprehensive Plan does not include goals supporting local solar development), the community should consider creating a local energy plan or similar policy document to provide a policy foundation for solar development regulation (as noted in II.B) .

B. Climate Change Goals - Model Community has committed to reducing carbon and other greenhouse gas emissions. Solar energy is an abundant, renewable, and nonpolluting energy resource and its conversion to electricity or heat reduces dependence on nonrenewable energy resources and decreases the air and water pollution that results from the use of conventional energy sources.

C. Infrastructure - Distributed solar photovoltaic systems will enhance the reliability and power quality of the power grid and make more efficient use of Model Community's electric distribution infrastructure.

D. Local Resource - Solar energy is an underused local energy resource and encouraging the use of solar energy will diversify the community's energy supply portfolio and reduce exposure to fiscal risks associated with fossil fuels.

Metropolitan Land Planning Act

Minnesota local governments subject to the Metropolitan Land Planning Act are required in their comprehensive plans to plan for the protection and development of solar resources. Communities must then incorporate Plan goals in their local controls. This ordinance implements that required Comprehensive Plan element.

E. Improve Competitive Markets - Solar energy systems offer additional energy choice to consumers and will improve competition in the electricity and natural gas supply market.

III. Definitions

Agrivoltaics – A solar energy system co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries, or other agricultural products or services.

Beneficial Habitat Solar Energy – A community- or large-scale solar energy system that meets the requirements of the Minnesota Beneficial Habitat Standard consistent with consistent with Minnesota Statutes, section 216B.1642

Solar Definitions

Not all these terms are used in this model ordinance, nor is this a complete list of solar definitions. As a community develops its own development standards for solar technology, many of the concepts defined here may be helpful in meeting local goals. For instance, solar daylighting devices may change the exterior appearance of the building, and the community may choose to distinguish between these devices and other architectural changes.

Building-integrated Solar Energy Systems – A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

Community-Scale Solar Energy System – A commercial solar energy system that converts sunlight into electricity for the primary purpose of serving electric demands off-site from the facility, either retail or wholesale. Community-scale systems are principal uses and projects typically cover less than 20 acres.

Differentiating Solar Uses by Size

Community-scale and Large-scale systems are defined here as occupying less than 20 acres and greater than 20 acres respectively. Some communities will use a lower number (ten acres) and some a higher number (up to 50 acres). An ex-urban city would use a lower number and a rural county could use a higher number. Community-scale is generally a size that can fit into the land use fabric of the community without assembly of separate parcels. Some communities have chosen not to distinguish between community- and large-scale, but use a single large-scale designation.

Community Solar Garden – A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minn. Statutes 216B.1641 or successor statute. A community solar garden may be either an accessory or a principal use.

Grid-intertie Solar Energy System – A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

Ground-mounted – A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mounted systems can be either accessory or principal uses.

Large-Scale Solar Energy System – A commercial solar energy system that converts sunlight into electricity for the primary purpose of wholesale sales of generated electricity. A large-scale solar energy system will have a project size greater than 20 acres and is the principal land use for the parcel(s) on which it is located.

Off-grid Solar Energy System – A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Passive Solar Energy System – A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Photovoltaic System – A solar energy system that converts solar energy directly into electricity.

Renewable Energy Easement, Solar Energy Easement – An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land, as defined in Minn. Stat. 500.30 Subd. 3 or successor statute.

Roof-mounted – A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mounted systems are accessory to the principal use.

Roof Pitch – The final exterior slope of a roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

Solar Access – Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

Solar Carport – A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.

Solar Collector – The panel or device in a solar energy system that collects solar radiant energy and transforms it into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

Solar Daylighting – Capturing and directing the visible light spectrum for use in illuminating interior building spaces in lieu of artificial lighting, usually by adding a device or design element to the building envelope.

Solar Energy – Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System – A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.

Solar Hot Air System (also referred to as Solar Air Heat or Solar Furnace) – A solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance includes a solar collector to preheat air or supplement building space heating, typically using a vertically-mounted collector on a south-facing wall.

Solar Hot Water System – A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar Mounting Devices – Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

Solar Ready Design –The design and construction of a building that facilitates and makes feasible the installation of rooftop solar.

Solar Resource – A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on all days of the year, and can be measured in annual watts per square meter.

Solar Resource

Understanding what defines a "solar resource" is foundational to how land use regulation affects solar development. Solar energy resources are not simply where sunlight falls. A solar resource has minimum spatial and temporal characteristics, and needs to be considered not only today but also into the future. Solar energy systems are economic only if the annual solar resource (measured in annual watts per square meter) are sufficiently high to justify the cost of installation. The resource is affected by the amount of annual shading, orientation of the panel, and typical atmospheric conditions. Solar resources on a particular site can be mapped and quantified, similar to quantifying other site resources that enhance property value; mineral resources, prime soils for agriculture, water, timber, habitat.

IV. Permitted Accessory Use - Solar energy systems are a permitted accessory use in all zoning districts where structures of any sort are allowed, subject to certain requirements as set forth below. Solar carports and associated electric vehicle charging equipment are a permitted accessory use on surface parking lots in all districts regardless of the existence of another building. Solar energy systems that do not meet the following design standards will require a conditional use permit.

A. Height - Solar energy systems must meet the following height requirements:

1. Building- or roof- mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment.

2. Ground- or pole-mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt.

3. Solar carports in non-residential districts shall not exceed 20 feet in height.

Height - Rooftop System

This ordinance notes exceptions to the height standard when other exceptions for rooftop equipment are granted in the ordinance. Communities should directly reference the exception language rather than use the placeholder language here.

Height - Ground or Pole Mounted System

This ordinance sets a 15-foot height limit, which is typical for residential accessory uses. Some communities allow solar to be higher than other accessory uses in order to enable capture of the lot's solar resource when lots and buildings are closer together. An alternative is to balance height with setback, allowing taller systems if set back farther– for instance, an extra foot of height for every extra two feet of setback. In rural (or large lot) areas, solar resources are unlikely to be constrained by trees or buildings on adjacent lots and the lot is likely to have adequate solar resource for a lower (10-15 foot) ground-mount application.

B. Setback - Solar energy systems must meet the accessory structure setback for the zoning district and principal land use associated with the lot on which the system is located, except as allowed below.

1. **Roof- or Building-mounted Solar Energy Systems** – The collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side-yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings.

2. **Ground-mounted Solar Energy Systems** - Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems.

C. Visibility - Solar energy systems in residential districts shall be designed to minimize visual impacts from the public right-of-way, as described in C.1-3, to the extent that doing so does not affect the cost or efficacy of the system. Visibility standards do not apply to systems in non-residential districts, except for historic building or district review as described in E. below.

Visibility and Aesthetics

Aesthetic regulation should be tied to design principles rather than targeted at a specific land use. If the community already regulates aesthetics in residential districts, this model language provides guidance for balancing between interests of property owners who want to use their on-site solar resources and neighbors concerned with neighborhood character. Substantial evidence demonstrates that solar installations have no effect on property values of adjacent properties. But where aesthetic regulation is used to protect community character, these standards provide balance between competing goals.

1. **Building Integrated Photovoltaic Systems** - Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use, or performance standards for the district in which the building is located.

2. **Aesthetic restrictions** – Roof-or ground-mounted solar energy systems shall not be restricted for aesthetic reasons if the system is not visible from the closest edge of any public right-of-way other than an alley, or if the system meets the following standards.

   a. Roof-mounted systems on pitched roofs that are visible from the nearest edge of the front right-of-way shall have the same finished pitch as the roof and be no more than ten inches above the roof.

   b. Roof-mounted systems on flat roofs that are visible from the nearest edge of the front right-of-way shall not be more than five feet above the finished roof and are exempt from any rooftop equipment or mechanical system screening.

3. **Reflectors** - All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.

D. Lot Coverage - Ground-mounted systems total collector area shall not exceed half the building footprint of the principal structure.

1. Ground-mounted systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted.

2. Ground-mounted systems shall not count toward accessory structure limitations.

3. Solar carports in non-residential districts ar exempt from lot coverage limitations.

E. Historic Buildings - Solar energy systems on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) must receive approval of the community Heritage Preservation Commission, consistent with the standards for solar energy systems on historically designated buildings published by the U.S. Department of Interior.

F. Plan Approval Required - All solar energy systems requiring a

Building Integrated PV

Building integrated solar energy systems can include solar energy systems built into roofing (existing technology includes both solar shingles and solar roofing tiles), into awnings, skylights, and walls.

Roof-Mounted Solar Energy Systems

This ordinance sets a threshold for pitched roof installations that they not be steeper than the finished roof pitch. Mounted systems steeper than the finished roof pitch change the appearance of the roof, and create additional considerations in regard to the wind and drift load on structural roof components. If the aesthetic impacts are not a concern to the community, the structural issues can be addressed in the building permit, as described in this Toolkit.

Reflectors

Unlike a solar collector, reflector systems do create a potential glare nuisance. While reflector systems are unusual, communities may want to include this reference as a precaution.

Impervious Surface Coverage

Rather than consider the solar panel for a ground-mount system as a roof, this provision recognizes that the ground under the panel can mitigate stormwater risks if it is kept in vegetation so that rain water can infiltrate. Any effects are deminimus for a small array if the lot is otherwise within coverage ratios.

Roof Coverage

National Fire Code standards recommend keeping solar arrays well away from roof edges and peak in order to enable some fire fighting access. Different fire departments have addressed this in different ways. Recommendations for solar friendly permitting that accommodate Fire Code recommendations can be found in the Solar America Board of Codes and Standards.

Plan Approval

This process is generally part of the process for obtaining a building permit. If the community does not issue building permits, it can be tied to a land use permit instead. For rural areas or cities without standards for rooftop systems, the plan approval section may be eliminated.

building permit or other permit from Model Community shall provide a site plan for review.

1. **Plan Applications** - Plan applications for solar energy systems shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mounted system, including the property lines.

2. **Plan Approvals** - Applications that meet the design requirements of this ordinance shall be granted administrative approval by the zoning official and shall not require Planning Commission review. Plan approval does not indicate compliance with Building Code or Electric Code.

G. Approved Solar Components - Electric solar energy system components must have a UL or equivalent listing and solar hot water systems must have an SRCC rating.

H. Compliance with Building Code - All solar energy systems shall meet approval of local building code officials, consistent with the State of Minnesota Building Code, and solar thermal systems shall comply with HVAC-related requirements of the Energy Code.

I. Compliance with State Electric Code - All photovoltaic systems shall comply with the Minnesota State Electric Code.

J. Compliance with State Plumbing Code - Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements.

K. Utility Notification - All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

V. Principal Uses – Model Community encourages the development of commercial or utility scale solar energy systems where such systems present few land use conflicts with current and future development patterns. Ground-mounted solar energy systems that are the principal use on the development lot or lots are conditional uses in selected districts.

A. Principal Use General Standards

1. Site Design

a. **Setbacks** – Community- and large-scale solar arrays must meet the following setbacks:

1. Property line setback for buildings or structures in the district in which the system is located, except as other determined in 1.a.5 below.

2. Roadway setback of 150 feet from the ROW centerline of State highways and CSAHs, 100 feet for other roads, except as other determined in 1.a.5 below.

3. Housing unit setback of 150 feet from any existing dwelling unit, except as other determined in 1.a.5 below.

4. Setback distance should be measured from the edge of the solar energy system array, excluding security fencing, screening, or berm.

5. All setbacks can be reduced by 50% if the array is fully screened from the setback point of measurement.

b. **Screening** – Community- and large-scale solar shall be screened from existing residential dwellings.

1. A screening plan shall be submitted that identifies the type and extent of screening.

2. Screening shall be consistent with Model Community's screening ordinance or standards typically applied for other land uses requiring screening.

3. Screening shall not be required along property lines within the same zoning district, except where the adjoining lot has an existing residential use.

4. Model Community may require screening where it determines there is a clear community interest in maintaining a viewshed.

Community-Scale Solar or Solar Gardens

Community solar systems differ from rooftop or solar farm installations primarily in regards to system ownership and disposition of the electricity generated, rather than land use considerations. There is, however, a somewhat greater community interest in community solar, and thus communities should consider creating a separate land use category.

This language limits the size of the garden to ten acres, which is an installation of no more than one MW of solar capacity. Communities should tailor this size limit to community standards, which may be smaller or larger.

Appropriate Setbacks

The community should consider balancing setback requirements and screening requirements for principal use solar. Since the primary impact to neighbors of large-scale solar is visual, screening becomes less useful, as the setbacks get larger (and vice versa).

The setback distances provided here are general examples that should be modified to be consistent with other setbacks already in the ordinance. Excessive setbacks that are unique to solar land uses, or that are similar to high nuisance land uses such as industrial uses or animal agriculture, are unjustified given the low level of risk or nuisance posed by the system.

Screening

The community should consider limiting screening of community- or large-scale solar to where there is a visual impact from an existing use, such as adjacent residential districts or uses. Solar energy systems may not need to be screened from adjacent lots if those lots are in agricultural use, are non-residential, or have low-intensity commercial use.

c. **Ground cover and buffer areas** - The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements may apply as required by Model Community.

1. Large-scale removal of mature trees on the site is discouraged. Model Community may set additional restrictions on tree clearing or require mitigation for cleared trees.

2. The project site design shall include the installation and establishment of ground cover meeting the beneficial habitat standard consistent with Minnesota Statutes, section 216B.1642, or successor statutes and guidance as set by the Minnesota Board of Water and Soil Resources (BWSR).

3. The applicant shall submit a planting plan accompanied by a completed "Project Planning Assessment Form" provided by BWSR for review by BWSR or the County SWCD.

4. Beneficial habitat standards shall be maintained on the site for the duration of operation, until the site is decommissioned. The owner of the solar array shall complete BWSR's "Established Project Assessment Form" at year 4 and every 3 years after that, and allow the County SWCD to conduct a site visit to verify compliance.

5. Model Community may require submittal of inspection fee at the time of the initial permit application to support ongoing inspection of the beneficial habitat ground cover.

6. The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of the Community equal to one hundred twenty-five (125) percent of the costs to meet the beneficial habitat standard. The financial guarantee shall remain in effect until vegetation is sufficiently established.

Ground Cover Standards

Minnesota has created a "beneficial habitat" certification, administered by the Board of Soil and Water Resources (BWSR) to enable local governments and solar developers to certify principal use solar as having achieved the co-benefits of using the site as pollinator habitat.

Establishing and maintaining native ground cover creates important co-benefits to the community or the property owner. Native grasses can be harvested for forage and wildflowers and blooming plants can create pollinator and bird habitat, and maintaining the site in native vegetation will build soils that can be turned back into agriculture at the end of the solar farm's life.

Site Design in Conditional Use Permit

Certain site design elements may be included in a community's conditional use permit for community- and large-scale solar. Best practices for habitat-friendly solar site design include, for instance, that:

• panels be at least 36 inches off the ground to allow mowing and other maintenance,

• panels be spaced to allow vegetation to be self-sustaining,

• maintenance standards limit or prevent pesticide use.

Financial Surety

Communities frequently require bonds or similar financial guarantees when infrastructure improvements are required for a development project. The beneficial habitat installation can be considered in a similar light. Establishing a self-sustaining pollinator or native habitat ground cover requires maintenance over the first 2-3 years, and some maintenance over the life of the project.

d **Foundations** - A qualified engineer shall certify that the foundation and design of the solar panel racking and support is within accepted professional standards, given local soil and climate conditions.

e. **Power and communication lines** - Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Model Community in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the zoning administrator.

f. **Fencing** Perimeter fencing forthe site shall not include barbed wire or woven wire designs, andshall preferably usewildlife-friendly fencing standards that include clearance at the bottom. Alternative fencing can be used if the site is incorporating agrivoltaics.

2. **Stormwater and NPDES** - Solar farms are subject to Model Community's stormwater management and erosion and sediment control provisions and NPDES permit requirements. Solar collectors shall not be considered impervious surfaces if the project is certified as beneficial habitat solar, as described in A.1.c.2. of this ordinance.

3. **Other standards and codes** - All solar farms shall be in compliance with all applicable local, state and federal regulatory codes, including the State of Minnesota Uniform Building Code, as amended; and the National Electric Code, as amended.

4. **Site Plan Required** - A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by Model Community. The site plan should show all zoning districts and overlay districts.

5. **Aviation Protection** - For solar farms located within 500 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of a glare analysis through a qualitative analysis of potential impact, field test demonstration, or geometric analysis of ocular impact in consultation with the Federal Aviation Administration (FAA) Office of Airports, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

6. **Agricultural Protection** - Solar farms must comply with site assessment or soil identification standards that are intended to identify agricultural soils. Model Community may require mitigation for use of prime soils for solar array placement, including the following:

   a. Demonstrating co-location of agricultural uses (agrivoltaics) on the project site.

   b. Using an interim use or time-limited CUP that allows the site to be returned to agriculture at the end of life of the solar installation.

   c. Placing agricultural conservation easements on an equivalent number of prime soil acres adjacent to or surrounding the project site.

   d. Locating the project in a Drinking Water Supply Management Area or wellhead protection area.

Stormwater and Water Quality Standards

Perennial grasses and wildflowers planted under the panels, between arrays, and in setback or buffer areas will substantially mitigate the stormwater risks associated with solar arrays, and result in less runoff than typically seen from many types of agriculture. The ground cover standards in Section A.3. will mitigate many stormwater risks, although soil type and slope can still affect the need for additional stormwater mitigation.

Solar with native perennial ground cover can provide multiple water quality benefits when converting from most agricultural crop uses. Both groundwater (limiting nitrate contamination) and surface waters (reducing phosphorus and sediment loading) can benefit if the system is appropriately designed.

Site Plan

Solar farm developers should provide a site plan similar to that required by the community for any other development. Refer to your existing ordinance to guide site plan submittal requirements.

Aviation Standards, Glare

This standard was developed for the FAA for solar installations on airport grounds. It can also be used for solar farm and garden development in areas adjacent to airports. This standard is not appropriate for areas where reflected light is not a safety concern.

Agricultural Protection

If the community has ordinances that protect agricultural soils, this provision applies those same standards to solar development. Communities should understand, however, that solar farms do not pose the same level or type of risk to agricultural practices as does housing or commercial development. Solar farms can be considered an interim use that can be easily turned back to agriculture at the end of the solar farm's life (usually 25 years.)

7. **Decommissioning** - A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life.

   a. Decommissioning of the system must occur in the event the project is not in use for 12 consecutive months.

   b. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and assurances that financial resources will be available to fully decommission the site.

   c. Disposal of structures and/or foundations shall meet the provisions of the Model Community Solid Waste Ordinance.

   d. Model Community may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

Prime Farmland and Agrivoltaics

Minnesota Admin. 7850.4400 Subd. 4 has provisions for the protection of prime farmland when large electric power generating plants are located on lands designated as prime farmland.

There are a number of mitigation opportunities for solar sited on prime farmland, such as co-locating agricultural uses within solar arrays (also called agrivoltaics). Groundcover that includes pollinator-friendly plantings may enhance surrounding agricultural opportunities, or in the case of protecting drinking water or wellhead protection areas as described below.

B. Community-Scale Solar – Model Community permits the development of community-scale solar, subject to the following standards and requirements:

1. **Rooftop gardens permitted** - Rooftop community systems are permitted in all districts where buildings are permitted.
2. **Community-scale uses -** Ground-mounted community solar energy systems must cover no more than ten acres (project boundaries), and are a permitted use in industrial and agricultural districts, and permitted with standards or conditional in all other non-residential districts. Ground-mounted solar developments covering more than ten acres shall be considered large-scale solar.
3. **Dimensional standards** - All structures must comply with setback, height, and coverage limitations for the district in which the system is located.
4. **Other standards** - Ground-mounted systems must comply with all required standards for structures in the district in which the system is located.

Defining Community-Scale Solar

The acreage size for community-scale solar garden written here (10 acres) is the high end of project size for a one megawatt system, which is the maximum size of community solar gardens within Xcel Energy's program. But other utilities have other size limitations, and community-scale could be defined as high as 10 megawatts (100 acre project size). Community-scale solar is the size that can fit in to the landscape.

Drinking Water Protection

In identifying preferred sites for solar principal uses the community should consider co-benefits of solar energy development. One such potential co-benefit is protection of drinking water supplies. Solar energy development may be intentionally sited within vulnerable portions of Drinking Water Supply Management Areas (DWSMAs)as a best management practice to restore and protect native perennial groundcover that reduces nitrate contamination of ground water supplies.

C. **Large-Scale Solar** - Ground-mounted solar energy arrays that are the principal use on the lot, designed for providing energy to off-site uses or export to the wholesale market, are permitted under the following standards:

1. **Conditional use permit** – Solar farms are conditional uses in agricultural districts, industrial districts, shoreland and floodplain overlay districts, airport safety zones subject to A.1.5. of this ordinance, and in the landfill/brownfield overlay district for sites that have completed remediation.

Large-Scale Solar Conditional Uses

Large -scale solar should require a conditional use or interim use permit in order for the community to consider the site-specific conditions. The districts listed here are examples. Each community needs to consider where large scale solar is suitable in the context of its zoning districts and priorities.

Example Use Table

Use Type	Residential	Mixed Use	Business	Industrial	Agricultural, Rural, Landfill	Shoreland	Floodplain	Special (Conservation, Historic Districts)
Large-scale solar				C	C	C	C	C
Community-scale solar	C	C	C	P	P	PS	PS	PS
Accessory use ground-mounted solar	P	P	P	P	P	P	C	C
Rooftop solar	P	P	P	P	P	P	P	PS

P = Permitted

PS = Permitted Special (additional separate permit or review)

C = Conditional

Blank Cell = Prohibited

Solar as a Land Use

The above use table shows four types of solar development that are distinct types of land uses (two kinds of accessory uses, two principal uses), and a group of districts or overlays that are commonly used in Minnesota.

• Rooftop system are permitted in all districts where buildings are permitted, with recognition that historic districts will have special standards or permits separate from the zoning permits.

• Accessory use ground-mounted are conditional where potentially in conflict with the principal district or overlay goal.

• Community-scale solar principal uses are conditional where land use conflicts or opportunity conflicts are high, permitted where a 10 acre development can be integrated into the landscape, and requiring special consideration in shoreland and floodplain overlay districts.

• Large-scale is prohibited in higher density districts and conditional in all other districts.

Both community- and large-scale solar is allowed in shoreland and floodplain overlay districts, because the site design standards requiring beneficial habitat ground cover not only ensure a low-impact development but in most cases result in a restoration of ecosystem services from the previous (usually agricultural) use.

VI. Restrictions on Solar Energy Systems Limited – As of (adoption date for this ordinance) new homeowners' agreements, covenant, common interest community standards, or other contract between multiple property owners within a subdivision of Model Community shall not restrict or limit solar energy systems to a greater extent than Model Community' solar energy standards.

VII. Solar Access - Model Community encourages protection of solar access in all new subdivisions.

A. Solar Easements Allowed - Model Community allows solar easements to be filed, consistent with Minnesota State Code 500. Any property owner can purchase an easement across neighboring properties to protect access to sunlight. The easement can apply to buildings, trees, or other structures that would diminish solar access.

B. Easements within Subdivision Process - Model Community requires new subdivisions to identify and create solar easements when solar energy systems are implemented as a condition of a PUD, subdivision, conditional use, or other permit, as specified in Section 8 of this ordinance.

Solar Easements

Minnesota allows the purchase and holding of easements protecting access to solar and wind energy. The easement must specify the following information:

Required Contents - Any deed, will, or other instrument that creates a solar or wind easement shall include, but the contents are not limited to:

(a) A description of the real property subject to the easement and a description of the real property benefiting from the solar or wind easement; and

(b) For solar easements, a description of the vertical and horizontal angles, expressed in degrees and measured from the site of the solar energy system, at which the solar easement extends over the real property subject to the easement, or any other description which defines the three dimensional space, or the place and times of day in which an obstruction to direct sunlight is prohibited or limited;

(more provisions, see Statute)

Source: Minnesota Stat. 500.30 Subd. 3.

VIII. Renewable Energy Condition for Certain Permits

A. **Condition for Planned Unit Development (PUD) Approval** - Model Community may require on-site renewable energy systems, zero-net-energy (ZNE) or zero-net-carbon (ZNC) building designs, solar-synchronized electric vehicle charging or other clean energy systems as a condition for approval of a PUD permit to mitigate for:

1. Impacts on the performance of the electric distribution system,
2. Increased local emissions of greenhouse gases associated with the proposal,
3. Need for electric vehicle charging infrastructure to offset transportation-related emissions for trips generated by the new development,
4. Other impacts of the proposed development that are inconsistent with the Model Community Comprehensive Plan.

B. **Condition for Conditional Use Permit** - Model Community may require on-site renewable energy systems or zero net energy construction as a condition for a rezoning or a conditional use permit.

Renewable Energy Conditions, Incentives

The community can use traditional development tools such as conditional use permits, PUDs, or other discretionary permits to encourage private investment in solar energy systems as part of new development or redevelopment. This model ordinance notes these opportunities for consideration by local governments. In most cases, additional ordinance language would need to be tailored to the community's ordinances.

For instance, a provision that PUDs (or other special district or flexible design standard) incorporate solar energy should be incorporated into the community's PUD ordinance rather than being a provision of the solar standards.

Conditional use permits generally include conditions, and those conditions can include renewable energy or zero net energy design, but only if the conditions are clearly given preference in adopted policy or plans. Explicit reference to climate or energy independence goals in the ordinance and explicit preference for such conditions will set a foundation for including such conditions in the permit.

IX. Solar Roof Incentives - Model Community encourages incorporating on-site renewable energy system or zero net energy construction for new construction and redevelopment. Model Community may require on-site renewable energy or zero-net-energy construction when issuing a conditional use permit where the project has access to local energy resources, in order to ensure consistency with Model Community's Climate Action Plan.

A. **Density Bonus** - Any application for subdivision of land in the ___ Districts that will allow the development of at least four new lots of record shall be allowed to increase the maximum number of lots by 10% or one lot, whichever is greater, provided all building and wastewater setbacks can be met with the increased density, if the applicant enters into a development agreement guaranteeing at least three (3) kilowatts of PV for each new residence that has a solar resource.

Solar Roof Incentives

This section of the model ordinance includes a series of incentives that can be incorporated into development regulation. Most cities and many counties use incentives to encourage public amenities or preferred design. These same tools and incentives can be used to encourage private investment in solar energy. Communities should use incentives that are already offered, and simply extend that incentive to appropriate solar development.

Some of the incentives noted here are not zoning incentives, but fit more readily into incentive programs offered by the community (such as financing or incentive-based design standards).

B. **Financial Assistance** – Model Community provides financial assistance to certain types of development and redevelopment. All projects that receive financial assistance of $_____ or greater, and that have a solar resource shall incorporate on-site renewable energy systems.

C. **Solar-Ready Buildings** – Model Community encourages builders to use solar-ready design in buildings. Buildings that submit a completed U.S. EPA Renewable Energy Ready Home Solar Photovoltaic Checklist (or other approved solar-ready standard) and associated documentation will be certified as a Model Community solar ready home, and are eligible for low-cost financing through Model Community's Economic Development Authority. A designation that will be included in the permit home's permit history.

D. **Solar Access Variance** – When a developer requests a variance from Model Community's subdivision solar access standards, the zoning administrator may grant an administrative exception from the solar access standards provided the applicant meets the conditions of 1. and 2. below:

1. **Solar Access Lots Identified** - At least __% of the lots, or a minimum of __ lots, are identified as solar development lots.

2. **Covenant Assigned** - Solar access lots are assigned a covenant that homes built upon these lots must include a solar energy system. Photovoltaic systems must be at least three (3) KW in capacity.

3. **Additional Fees Waived** - Model Community will waive any additional fees for filing of the covenant.

Solar Ready Buildings

New buildings can be built "solar-ready" at very low cost (in some cases the marginal cost is zero). Solar energy installation costs continue to decline in both real and absolute terms, and are already competitive with retail electric costs in many areas. If new buildings have a rooftop solar resource, it is likely that someone will want to put a solar energy system on the building in the future. A solar ready building greatly reduces the installation cost, both in terms of reducing labor costs of retrofits and by "pre-approving" most of the installation relative to building codes.

A community's housing and building stock is a form of infrastructure that, although built by the private sector, remains in the community when the homeowner or business leaves the community. Encouraging solar-ready construction ensures that current and future owners can take economic advantage of their solar resource when doing so makes the most sense for them.

Solar Access Subdivision Design

Some communities will require solar orientation in the subdivision ordinance, such as requiring an east-west street orientation within 20 degrees in order to maximize lot exposure to solar resources. However, many such requirements are difficult to meet due to site constraints or inconsistency with other requirements (such as connectivity with surrounding street networks). Rather than simply grant a variance, the community can add a condition that lots with good solar access actually be developed as solar homes.

ORDINANCE NO. 513

AN ORDINANCE AMENDING THE CITY OF MILACA CODE TITLE XI OF THE CITY CODE ADDING CHAPTER 121 PROHIBITING CANNABIS USE WITHIN PUBLIC PROPERTY AND PUBLIC PLACES

121.01 PURPOSE AND INTENT.

The purpose of this chapter is to regulate the use of legalized cannabis and any product that contains cannabis to meet the requirements of use within public property and public places.

121.02 DEFINITIONS.

PUBLIC PLACE. Property that is generally open to or accessible by the public, except on those premises licensed by the State of Minnesota to permit on-site consumption.

PUBLIC PROPERTY. Property, real and personal, that is owned, managed, or controlled by the City, including, but not limited to: City buildings and all the land thereon, parking lots, parks, airport property, golf courses, pathways and trails, and city rights-of-way consisting of both the traveled portion and the abutting boulevard, sidewalks and trails, and any City personal property, such as motor vehicles, city equipment, and the like.

CANNABIS FLOWER. "Cannabis flower" means the harvested flower, bud, leaves, and stems of a cannabis plant. Cannabis flower includes adult-use cannabis flower and medical cannabis flower. Cannabis flower does not include cannabis seed, hemp plant parts, or hemp-derived consumer products.

CANNABIS PRODUCTS. "Cannabis product" means any of the following:

(1) cannabis concentrate;

(2) a product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted or derived from cannabis plants or cannabis flower; or

(3) any other product that contains cannabis concentrate.

Cannabis product includes adult-use cannabis products, including but not limited to edible cannabis products and medical cannabinoid products. Cannabis product does not include cannabis flower, artificially derived cannabinoid, lower-potency hemp edibles, hemp-derived consumer products, or hemp-derived topical products.

121.03 PROHIBITION.

No person shall use cannabis flower, cannabis products within public property or in a public place.

121.04 PENALTY.

A violation of this Section is a petty misdemeanor.

This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Adopted by the City Council of the City of Milaca this 21st day of September, 2023.

Mayor Dave Dillan

ATTEST:

City Manager Tammy Pfaff

First Reading: August 17, 2023

Second Reading: September 21, 2023

Published:

CITY OF MILACA PLANNING COMMISSION MEETING MINUTES
July 8, 2024
6:00 P.M.

1. OPEN PLANNING COMMISSION MEETING: Brad Tolzman –Chairman 6:00 p.m.

2. MEMBERS PRESENT: Roll Call:
a. Brett Freese, Arla Johnson, Greg Kuperus, Jake Lepper, Mitch Siemers, Brad Tolzman
b. Others Present: City Manager Tammy Pfaff, Assistant City Clerk Deloris Katke,
Council Liaison Norris Johnson.

3. APPROVAL OF MINUTES FROM June 3, 2024:
Chairman Tolzman called for a motion to approve the minutes from June 3, 2024.
Motion to approve minutes from June 3, 2024, made by Arla Johnson, seconded by Mitch Siemers. No further discussion. All in favor.
Motion passes.

4. PUBLIC HEARINGS: Opened at 6:01 p.m. -no residents present for public hearing

5. PUBLIC HEARINGS: Closed at 6:01 p.m.

6. NEW BUSINESS:

a. **Ordinance #529 Regulating Cannabis Businesses and Cultivation:** Committee members made the following recommendations on the topics discussed.
-Allow temporary events, consistent with state guidelines.
-122.04(A) Individuals and entities must first register with the State of Minnesota before they may operate a retail cannabis business in the city.
-122.04(B) Prior to issuance of a cannabis retail business registration, the city shall conduct a preliminary compliance check…
-122.08 A state-licensed cannabis retail business shall apply to renew registration on a form established by the city. The city may charge a renewal fee for the registration starting at the second renewal…
-122.09 The city shall reinstate a registration if the OCM determines that the violation(s) have been resolved.
-122.11 The city shall limit the number of cannabis retail businesses to 10.
-122.12 The city shall prohibit the operation of cannabis retail business with 150 feet of another cannabis retail business.

-122.13 Zoning and Land Use

Cultivation: Industrial
Manufacture: Industrial
Low-Potency Hemp Edible Manufacturers: Industrial
Wholesale: Industrial
Retail: B-2 General Retail
Transportation: Industrial
Delivery: Industrial

-122.14 Hours of Operation

Monday -Sunday: 10 a.m. to 10 p.m.

-122.16 Temporary cannabis events will be allowed, with a $200/ day fee, and no additional standards pertaining to alcohol consumption, hours, etc., beyond existing state statutes.

-122.17 Low potency edibles businesses are permitted in the following zoning districts:

B2 Retail
I1 Industrial

b. Ordinance #156.057 Accessory Buildings, Structures and Uses (Tarp-Like Structures):
PC Members recommended prohibiting all tarp-like structures, with the exception of those for business or retail use, during the time period April 1 to June 30, with a maximum size of 144 sq. ft.

7. MISCELLANEOUS:
City Manager Pfaff stated that a city ordinance related to solar panel projects, as well as additional discussions related to tarp like structures, and cannabis cultivation will likely be topics of upcoming Planning Commission meetings.

8. ADJOURN:
PC Chairman Tolzman called for a motion to adjourn. PC Member Siemers made the motion to adjourn. PC Member Kuperus seconded the motion. No further discussion. All In favor.
Motion passes.
Meeting adjourned at 7:11p.m.

ORDINANCE NO. XXX

AN ORDINANCE AMENDING THE FOLLOWING:

TITLE XI (BUSINESS REGULATIONS) CHAPTER 121 (PROHIBITING CANNABIS USE WITHIN PUBLIC PROPERTY AND PUBLIC PLACES) SECTION 02 (DEFINITIONS) OF THE CITY OF MILACA CODE OF ORDINANCES

PUBLIC PLACE: Property that is generally open to or accessible by the public, except on those premises licensed by the State of Minnesota to permit on-site consumption. Including, but not limited to restaurants, bars, any other food or liquor establishment, hospitals, nursing homes, auditoriums, arenas, gyms, meeting rooms, common areas of rental apartment buildings, and other places of public accommodation.

AND AMENDING:

TITLE XV (LAND USAGE) CHAPTER 156 (ZONING)

156.035 R-1 Single Family

Add (F) Prohibited Uses: Cannabis Products: all commercial cannabis cultivation, retail, warehousing and manufacturing.

156.036 R-2 One and Two Family

Add (E) Prohibited Uses: Cannabis Products: all commercial cannabis cultivation, retail, warehousing and manufacturing.

156.037 R-3 Multi Family

Add (E) Prohibited Uses: Cannabis Products: all commercial cannabis cultivation, retail, warehousing and manufacturing.

156.038 B-1 Central Business

Add (H) Prohibited Uses:

1. All commercial cannabis cultivation, retail, warehousing and manufacturing excluding retail of low potency cannabis products.

2. Sexually Oriented Business

156.039 B-2 General Business

Add in (D) Permitted principal uses:

Retail sales of Low Potency Cannabis Products as defined under Minn. Stat. §342.01 Subd. 50.

Cannabis businesses licensed or endorsed for delivery

Tobacco Shop

Add (G) Prohibited Uses:

1. All commercial cannabis cultivation, retail, warehousing and manufacturing excluding retail of low potency cannabis products.

2. Sexually Oriented Business

156.042 I-1 Light Industrial District

Add in (D) Permitted principal uses:

Businesses licensed or endorsed for low-potency hemp edible manufacturers

Cannabis businesses licensed or endorsed for cultivation, cannabis manufacturing and wholesale

Cannabis businesses licensed or endorsed for transportation

Cannabis businesses licensed or endorsed for delivery

Retail sales of Lower-Potency Hemp Edibles as defined under Minn. Stat. §342.01 Subd. 50.

ORDINANCE NO. XXX

AN ORDINANCE ADDING SECTIONS 200 TO TITLE XV (LAND USAGE) CHAPTER 156 (ZONING) OF THE CITY OF MILACA CODE OF ORDINANCES

156.200 (New Section) **Adult Use Cannabis and Cannabis Business and Cultivation:**

(A) DEFINITIONS.

Unless otherwise noted in this section, words and phrases contained in Minn. Stat. §342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this ordinance.

CANNABIS CULTIVATION. A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant, harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office. Cannabis Cultivation indoor can have up to 30,000 square feet with outdoor business up to 2 acres and no more than 4 acres.

CANNABIS FLOWER. "Cannabis flower" means the harvested flower, bud, leaves,

and stems of a cannabis plant. Cannabis flower includes adult-use cannabis flower and medical cannabis flower. Cannabis flower does not include cannabis seed, hemp plant parts, or hemp-derived consumer products.

CANNABIS PRODUCTS. "Cannabis product" means any of the following:

(1) cannabis concentrate;

(2) a product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted or derived from cannabis plants or cannabis flower; or

(3) any other product that contains cannabis concentrate.

Cannabis product includes adult-use cannabis products, including but not limited to edible cannabis products and medical cannabinoid products. Cannabis product does not include cannabis flower, artificially derived cannabinoid, lower-potency hemp edibles, hemp-derived consumer products, or hemp-derived topical products.

CANNABIS RETAIL BUSINESSES. A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, lower-potency hemp edible retailers.

CANNABIS RETAILER. Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.

CULTIVATION. Any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis plants, cannabis flower, hemp plants or hemp plant parts.

CULTIVATOR. Cultivators may cultivate cannabis and package such cannabis for sale to another licensed cannabis business.

DAYCARE. A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis,

for any part of a 24-hour day.

DELIVERY SERVICE. Delivery services may purchase cannabis, cannabis products, and hemp products from retailers or cannabis business with retail endorsements for transport and delivery to customers.

EVENT ORGANIZER. Event organizers may organize a temporary cannabis event lasting no more than four (4) days.

LOWER-POTENCY HEMP EDIBLE. As defined under Minn. Stat. §342.01 Subd. 50.

LOWER-POTENCY HEMP EDIBLE MANUFACTURER. Lower-potency hemp edible manufacturers may manufacture and package lower-potency hemp edibles for consumer sale, and sell hemp concentrate and lower-potency hemp edibles to other cannabis and hemp businesses.

LOWER-POTENCY HEMP EDIBLE RETAILER. Lower-potency hemp edible retailers may sell lower-potency hemp edibles to customers.

MANUFACTURER. Manufacturers may manufacture cannabis products and hemp products, and package such products for sale to a licensed cannabis retailer.

MEDICAL CANNABIS COMBINATION BUSINESS. Medical cannabis combination businesses may cultivate cannabis and manufacture cannabis and hemp products, and package such products for sale to customers, patients, or another licensed cannabis business. Medical cannabis combination businesses may operate up to one retail location in each congressional district. Medical cannabis combination businesses may cultivate at more than one location within other limitations on cultivation.

MEZZOBUSINESS. Mezzobusinesses may cultivate cannabis and manufacture cannabis products and hemp products, and package such products for sale to customers or another licensed cannabis business. Mezzobusiness may also operate up to three retail locations. Indoor business can have up to 15,000 square feet while outdoor business can have up to 1 acre and no more than 3 acres.

MICROBUSINESS. Microbusinesses may cultivate cannabis and manufacture cannabis products and hemp products and package such products for sale to customers or another licensed cannabis business. Microbusiness may also operate a single retail location. Indoor business can have up to 5,000 square feet while outdoor can have up to ½ acre.

OFFICE OF CANNABIS MANAGEMENT. Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance is the state regulatory office created to oversee the implementation and regulation of the adult-use cannabis market, the medical cannabis market and the consumer hemp industry. OCM governs the application and licensing process for cannabis and hemp businesses, specific requirements for each type of license and their respective business activities and conducts enforcement and inspection activities across the Minnesota cannabis and hemp industries.

PLACE OF PUBLIC ACCOMMODATION. A business, accommodation, refreshment, entertainment, recreation or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

PRELIMINARY LICENSE APPROVAL. OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. §342.17.

PUBLIC PLACE. Property that is generally open to or accessible by the public, except on those premises licensed by the State of Minnesota to permit on-site consumption. Including, but not limited to restaurants, bars, any other food or liquor establishment, hospitals, nursing homes, auditoriums,

arenas, gyms, meeting rooms, common areas of rental apartment buildings, and other places of public accommodation.

PUBLIC PROPERTY. Property, real and personal, that is owned, managed, or controlled by the City, including, but not limited to: City buildings and all the land thereon, parking lots, parks, airport property, golf courses, pathways and trails, and city rights-of-way consisting of both the traveled portion and the abutting boulevard, sidewalks and trails, and any City personal property, such as motor vehicles, city equipment, and the like.

RESIDENTIAL TREATMENT FACILITY. As defined under Minn. Stat. §245.462 Subd. 23.

RETAIL REGISTRATION. An approved registration issued by the city to a state-licensed cannabis retail business.

RETAILER. Retailers may sell immature cannabis plants and seedlings, cannabis, cannabis products, hemp products, and other products authorized by law to customers and patients. May operate up to five (5) retail locations under a single license.

SCHOOL. A public school as defined under Minn. Stat. §120A.05 or a nonpublic school that must meet the reporting requirements under Minn. Stat. §120A.24.

STATE LICENSE. An approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

TESTING FACILITY. Testing facilities may obtain and test immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from licensed cannabis businesses.

TRANSPORTER. Transporters may transport immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products to licensed cannabis businesses.

WHOLESALER. Wholesalers may purchase and/or sell immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from another licensed cannabis business. Wholesalers may also import hemp-derived consumer products and lower-potency hemp edibles.

(B) City of Milaca has the authority to adopt this ordinance pursuant to:

(1) Minn. Stat. §342.13(c) regarding the authority of a local unit of government to adopt reasonable restrictions of the time, place and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.

(2) Minn. Stat. 462.357 regarding the authority of a local authority to adopt zoning ordinances.

(C) This Ordinance shall be applicable to the legal boundaries of City of Milaca. City of Milaca has delegated cannabis retail registration authority to Mille Lacs County. However, City of Milaca may adopt ordinances if Mille Lacs County has not adopted conflicting provisions.

(1) Within 30 days of receiving a copy of an application from the county, the City shall certify on a form provided by the county whether a proposed cannabis business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code. The county may not issue a license if the city informs the county that the cannabis business does not meet local zoning and lad use laws. If the city does not provide the certification to the county within 30 days of receiving a copy of the application from the county, the county may issue a license.

(2) The office by rule shall establish an expedited complaint process to receive, review and respond to the complaints made by the city about a cannabis business. At a minimum, the expedited complaint process shall require the office to provide an initial response to the complaint within seven days and perform any necessary inspections within 30 days. Nothing in this paragraph prohibits the city

from enforcing a local ordinance. If the city notified the office that a cannabis business other than a cannabis retailer, cannabis microbusiness or cannabis mezzobusiness with a retail operations endorsement, lower-potency hemp edible retailer, or medical cannabis combination business operating a retail location poses an immediate threat to the health or safety of the public, the office must respond within one business day and may take any action described in MS Statute §342.19 or §342.21.

(D) If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

DO WE WANT SO MANY FEET FROM RESIDENTIAL DISTRICT?

WORTH APTS FOR EXAMPLE

(E) The city shall prohibit the operation of a cannabis business within 1,000 feet of a school or within 500 feet of a daycare, residential treatment facility, churches, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities, libraries, recreational centers, halfway houses or of an attraction within a public park that is regularly used by minors, including a playground or athletic field. The city shall prohibit the operation of a cannabis retail business within 150 feet of another cannabis retail business. Pursuant to Minn. Stat. §462.367, Subd. 14, nothing in this ordinance shall prohibit an active cannabis business or a cannabis business seeking registration from continuing operation at the same site if a school, daycare, residential treatment facility or attraction within a public park that is regularly used by minors moves within the minimum buffer zone.

how many acres needed for growing/ cultivation?

(F) Access to where product is stored must be resilient and strong enough to resist attempts at being broken to gain entry.

(G) Security Cameras

156.201 PERFORMANCE, LOCATION AND SITE DEVELOPMENT STANDARDS-ODOR MANAGEMENT OF CANNABIS FACILITIES.

(A) No person, tenant, occupant, or property owner shall permit the emission of cannabis odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.

(B) Whether or not a cannabis odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

(C) A cannabis odor emission shall be deemed to interfere with the reasonable and comfortable use and enjoyment of property if cannabis odor is detectable outside the premises.

(D) No person shall be convicted of a violation of this section unless the zoning official has delivered or posted a written warning, in the previous twelve (12) months, that conduct violating this section is occurring or has occurred.

(E) Extended grace period for licensed cannabis business. No person who receives a warning at a licensed cannabis business shall be convicted of a violation that allegedly occurred within thirty (30) days after the first warning issued pursuant to subsection (d), if all of the following conditions are met:

(1) A first warning within twelve (12) months was previously issued pursuant to subsection (D) of this section for the person's property and the subject property is licensed as a cannabis cultivation facility by the city or the state;

(2) Seven (7) or fewer days after the warning was posted or delivered, the person submitted a written document to the city manager which explained (i) why the cannabis odor emissions could not be abated within seven (7) days feasibly, and (ii) how the person planned to abate the cannabis odor emission in the following ninety (90) days;

(3) The person receiving the warning has diligently pursued to complete the plans for abating the cannabis odor emission; and

(4) The written document described in condition (2) was submitted fewer than ninety (90) days before the date of violation.

§156.202 - ZONING DESIGN STANDARDS FOR SPECIFIC ZONES AND USES FOR CANNABIS AND CANNABIS RELATED BUSINESSES

(A) Intent and application.

(1) It is the intent of the community to set restrictions limiting the visibility of cannabis from the exterior of cannabis establishments meant to ensure minors are not enticed by cannabis, hemp, and their accessories, tobacco and tobacco paraphernalia, or sexually oriented businesses. The purpose of these design standards is to establish a quality impression and to ensure minimum building design standards in order to protect neighboring investment.

(2) These design standards apply to all new construction, conversion of existing structures to these uses, and to any expansion of existing buildings.

(3) Exception: Conversions of existing structures to the above uses shall be exempt from subsection (B) (1).

(B) Materials, orientation, windows, roofs, and accessory structures.

(1) Materials on vertical surfaces or building fascia. All building vertical surfaces, including front, side, and rear, shall have building finishes made of fire-resistant and low maintenance construction materials that may include: face brick, architectural or decorative block or concrete, stone, stucco, aluminum, or steel without exposed fasteners, and other materials that enrich the impression and appearance of the community. The color of materials shall be part of the manufacturing and construction process.

(2) Orientation. For purposes of this section, the term "front of a building" means the lineal and vertical surface facing a public street. The front of the building shall have a clearly defined entrance and shall incorporate required windows and doors. If the building abuts more than one (1) street, the zoning official will determine what is the front for purposes of window placement.

(3) Windows. The front of the building shall have a maximum of ten (10) percent of the lineal ground floor in see-through windows. Window space shall not be used for signage, but may be tinted or frosted. Cannabis or hemp products, liquor, tobacco, or related paraphernalia shall not be visible through such windows.

Exception: Sexually oriented businesses shall be no see-through windows; all windows shall be one hundred (100) percent frosted or tinted and not allowed to be used for signage.

(4) Rooftop equipment. The roof design shall provide screening of rooftop equipment as seen from any public street, alley, or residential zoning district.

(5) Ground equipment. The site design shall provide for screening of ground mounted equipment, exterior ductwork, and like equipment. Individual exterior units can be exempted if it meets the intent of the district design standards as determined by the zoning official.

(6) Trash. Exterior trash enclosures are required and shall be designed with materials similar to materials used on the principal building. Trash enclosures shall be adequate in height to screen trash containers and materials but shall not be less than six (6) feet in height.

(7) Given the noxious smells and potential dangers related to the storage, cultivation, processing, and consumption of cannabis, no cannabis business shall:

a. Share the same air space with other occupancies.

b. Have residential occupancy in the same building.

c. Must have secure storage facility.

d. Must be solely a cannabis related business.

(8) All design standards noted in specific zone standards shall also apply.

(9) Night sky compliant structures and general exterior site lighting. All sites may be lighted to provide safety, utility, security, productivity, and enjoyment of a property after dark. Any such lighting shall minimize adverse offsite impacts such as light trespass, obtrusive glare, and effects of light pollution. All lights shall be directed toward the site and away from the public right-of-way, adjacent properties, and residential districts with fully shielded cut off luminaires. Transparent or translucent structures shall not be interiorly lit during nighttime conditions.

156.203 - LOCATIONAL AND SITE SETBACK REQUIREMENTS FOR CANNABIS

(A) Intent

(1) It is the intent of the community to set restrictions limiting the visibility of cannabis from the exterior of cannabis establishments meant to ensure minors are not enticed by cannabis, hemp, and their accessories. The purpose of these design standards is to establish a quality impression and to ensure minimum building design standards in order to protect neighboring investment.

a. A straight-line drawing shall be prepared within thirty (30) days prior to application depicting the property lines and the structures containing any of the above listed uses in 156.2000(E). The drawing shall be reviewed by the zoning official for accuracy. For purposes of this section, a use shall be considered existing, established, or application submitted at the time an application is submitted. In the event of a dispute between the applicant and the city as to the accuracy of the drawing, the building official may order the applicant to provide a drawing with the information required under this subsection prepared by a registered land surveyor. For setback purposes, a public park or recreational area is land which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts,

pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities the drawing shall include distances from business of like use listed in 156.200(E).

b. For the purpose of section 156.204(A)(1)(a), measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a cannabis retail business is conducted, to the nearest portion of the building or structure of a use listed in section 156.200(E). In the case of a land use in section 156.200(E) where no primary structure is present, measurement shall be made to the property line. Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section. Such distance shall be measured across property lines, regardless of ownership of the property.

(B) Zoning B-2 General Business

Permitted principal uses:

Retail sales of Low Potency Cannabis Products as defined under Minn. Stat. §342.01 Subd. 50.

Cannabis businesses licensed or endorsed for delivery

Prohibited Uses:

1. All commercial cannabis cultivation, retail, warehousing and manufacturing excluding retail of low potency cannabis products.

2. Sexually Oriented Business

I-1 Light Industrial District

Permitted principal uses:

Businesses licensed or endorsed for low-potency hemp edible manufacturers

Cannabis businesses licensed or endorsed for cultivation, cannabis manufacturing and wholesale

Cannabis businesses licensed or endorsed for transportation

Cannabis businesses licensed or endorsed for delivery

Retail sales of Lower-Potency Hemp Edibles as defined under Minn. Stat. §342.01 Subd. 50.

§156.204 HOURS OF OPERATION.

Cannabis businesses are limited to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours of 10 a.m. and 10 p.m. However, state statutes prohibit the sale of cannabis between 2 a.m. and 8 a.m., Monday through Saturday, and between 2 a.m. and 10 a.m. on Sundays. Minn. Stat. §342.13.

§156.205 ADVERTISING.

(A) May not include or appeal to those under 21 years old.

(B) Must include property warning statements.

(C) May not include misleading claims or false statements.

(D) Cannabis businesses are permitted to erect up to two fixed signs on the exterior of the building or property of the business, unless otherwise limited by city's sign ordinances. Billboards are not allowed.

§156.206 TEMPORARY CANNABIS EVENTS.

create application

Any individual or business seeking to obtain a cannabis event license must provide OCM information about the time, location, layout, number of business participants, and hours of operation. A cannabis event organizer must receive local approval, including obtaining any necessary permits or licenses issued by the city and/or county before holding a cannabis event. Event cannot last any longer than four (4) days. A license or permit is required to be issued and approved by the city prior to holding a Temporary Cannabis Event. A registration fee, as established in the city's fee schedule, shall be charged to applicants for a Temporary Cannabis Event. The city shall require an application for Temporary Cannabis Events. An applicant for a retail registration shall fill out an application form, as provided by the city. Said form shall include, but is not limited to:

(1) Full name of the property owner and applicant;

(2) Address, email address, and telephone numbers of the applicant;

(3) The address and parcel ID where event is to be held

(4) The applicant shall include with the form:

a. application fee as required

b. a copy of the OCM cannabis event license application, submitted pursuant to Minn. Stat. §342.39 Subd. 2.

The application shall be submitted to the city, or other designee, for review. If the designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies. Once an application is considered complete, the designee shall inform the applicant as such, process the application fees and forward the application to the city council for approval or denial. The application fee shall be non-refundable once processed. The application for a license for a Temporary Cannabis Event shall meet the following standards:

- Event must be held on owner's business lot
- Must pay $200 per day for Temporary Event Application Fee
- Must comply with Fire Code for Occupancy Load if event is held indoor
- Any retail sales must be by a licensed or endorsed retail business and licensed through the OCM

A request for a Temporary Cannabis Event that meets the requirements of this section shall be approved. A request for a Temporary Cannabis Event that does not meet the requirements of this section shall be denied. The city shall notify the applicant of the standards not met and basis for denial.

Add I-1 Light Industrial ?

§156.207 SALE OF LOW-POTENCY HEMP EDIBLES.

The sale of Low-Potency Edibles is permitted, subject to the conditions within this ordinance. Low-Potency Edibles businesses are permitted in the following zoning districts:

B-2 General Business District and I-1 Light Industrial

The sale of Low-Potency Edibles is permitted:

(A) In a Municipal Liquor Store.

(B) In places that admit persons 21 years of age or older.

(C) In places that meet requirements of this ordinance.

(D) Shall be sold behind a counter and stored in a locked case.

(E) Sold between the hours of 10 a.m. and 10 p.m. However, state statutes prohibit the sale of cannabis between 2 a.m. and 8 a.m., Monday through Saturday, and between 2 a.m. and 10 a.m. on Sundays. Minn. Stat. §342.13.

§156.208 SALES OF ADULT-USE CANNABIS.

The flow of all products through the supply chain must be tracked by the state-authorized tracking system. All products sold to consumers and patients must be tested for contaminants. Home delivery is allowed by licensed businesses.

§156.209 TAXES.

Retail sales of taxable cannabis products are subject to the state and local sales and use tax and a ten (10)% gross receipts tax. Cannabis gross receipts tax proceeds are allocated as follows:

20% to the local government cannabis aid account

80% to the state general fund

Local taxes imposed solely on sale of cannabis products are prohibited. Cannabis retailers will be subject to the same real property tax classification as all other retail businesses. Real property used for raising, cultivating, processing, or storing cannabis plants, cannabis flower, or cannabis products for sale will be classified as commercial and industrial property.

§156.210 INDIVIDUALS.

(A) Individuals may possess 2 ounces of flower in public.

(B) Individuals may possess 2 pounds in private residence.

(C) 8 grams of concentrate.

(D) 800 mg THC edibles (including lower-potency hemp).

(E) Consumption is only allowed on private property or at licensed businesses with on-site consumption endorsements. Consumption is not allowed in public.

(F) Gifting cannabis to another individual over 21 years old is allowed, subject to possession limits.

(G) Home cultivation is limited to four (4) mature and four (4) immature plants (8 total) in a single residence. Plants must be in an enclosed and locked space.

(H) Home extraction using volatile substances (e.g. butane, ethanol) is not allowed.

(I) Unlicensed sales are not allowed.

§156.211 LOCAL GOVERNMENT AS A CANNABIS RETAILER.

City of Milaca may establish, own and operate one municipal cannabis retail business subject to the restrictions in this ordinance. The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses under this ordinance. The city shall be subject to all same rental license requirements and procedures applicable to all other applicants.

§156.212 USE IN PUBLIC PLACES.

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or an event licensed to permit on-site consumption of adult-use.

Adopted this_____day of _____, 2025.

ORDINANCE #XXX

AN ORDINANCE TO THE CITY CODE

TITLE IX (GENERAL REGULATIONS) ADDING CHAPTER 99 TEMPORARY USES OF THE CITY OF MILACA CODE OF ORDINANCES

THE CITY COUNCIL OF THE CITY OF MILACA, MINNESOTA ORDAINS AS FOLLOWS:

§99.01 PURPOSE AND INTENT.

(A) This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses comply with the standards in this division and are discontinued upon the expiration of a set time period. Temporary uses and special events shall not involve the construction or alteration of any permanent building or structure.

§99.02 CONDITIONAL USE PERMIT OR PERMIT REQUIRED.

Temporary uses and structures that require a permit shall be reviewed in accordance with the process outlined in §156.150-§156.154 Conditional Use Permits, §156.077 and §156.181 Building Permits.

§99.03 GENERAL STANDARDS FOR TEMPORARY USES.

Temporary uses, structures, or events shall comply with the following:

(A) Obtain the appropriate permits (as required), including the signature of the property owner on which the temporary use is proposed;

(B) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

(C) Be compatible with the principal uses taking place on the site;

(D) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;

(E) Not include permanent alterations to the site;

(F) Meet all the setbacks of the underlying base and overlay zoning districts, unless expressly stated otherwise in this chapter;

(G) Temporary signs permitted under the code and associated with the use or structure shall be removed when the temporary activity ceases. See also §156.132 Signs Permitted Without Permit.

(H) Not violate the applicable conditions of approval that apply to a site or use on the site;

(I) Not interfere with the normal operations of any permanent use located on the property; and

(J) Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.

§99.04 TABLE OF ALLOWED TEMPORARY USES AND STRUCTURES.

Table below summarizes allowed temporary uses and structures and any general or specific standards that apply. Temporary uses or structures not listed in the table are prohibited.

TEMPORARY USES AND STRUCTURES			
Temporary Use or Structure	***Allowable Duration (per site)***	***Permit(s) Required***	***Additional Requirements***
Temporary Structure			
Construction dumpster (on public ROW/property)	Until issuance of certificate of occupancy or two days following expiration or finalizing of a building permit	Yes-Bldg. Permit	See §50.01
Construction dumpster (on private property)	30 days without a building permit	No	See §50.01
Construction trailer	Until issuance of certificate of occupancy	Yes-Bldg. Permit	
Mobile food units		Yes	See §115.01-§115.99
Recreational vehicle use		No	See §98.01-98.04
Real estate office/model sales home	Until 85% occupancy of the phase is reached	Yes-Bldg. Permit	
Temporary sign		No	See §156.132
Temporary Sales			
Garage/yard sale	3 days per event; 3 events total per calendar year	No	See §96.01
Seasonal sales, Seasonal Greenhouse Sales	April 1-June 30	Yes CUP	§156.150-§156.154
Special Events	See City Code	Yes	

§99.05 SPECIFIC STANDARDS FOR TEMPORARY USES.

(A) *Construction dumpster.*

(1) The placement of a temporary construction dumpster or other trash receptacle within a public right-of-way or other site owned by the city shall be subject to standards in the city code as may be applicable.

(2) Temporary trash receptacles or dumpsters located outside public rights-of way are not required to obtain a temporary use permit, but shall comply with the following standards:

a) Be located to the side or the rear of the site, to the maximum extent practicable;
b) Be located as far as possible from lots containing existing development;
c) Not be located within a floodplain or otherwise obstruct drainage flow;
d) Not be placed within five feet of a fire hydrant or within a required landscaping area;
e) Be located outside of any required tree protection fencing and the dripline of existing trees; and
f) Be secured with a cover to prevent litter and debris from escaping the dumpster.

(B) *Construction trailer.*

(1) Construction trailers may be permitted on a construction site provided that the trailer is:

a) Approved by the City Manager and Police Department for location, safety, and compatibility with adjacent properties;

b) Located on the same site or in the same development as the related construction;

c) Not located within a required landscape area; and

d) Associated with development for which a valid building permit has been or will be issued.

(2) The applicant shall be required to restore the trailer site to its previous condition if the trailer is located off the construction site.

(C) *Real estate sales office/model sales home.* One temporary real estate sales office or model sales home per builder or developer shall be permitted in a section or phase of a new residential or nonresidential development provided the office or model home:

(1) Is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscape;

(2) Complies with the applicable standards in the approved development plan (if applicable);

(3) Is operated by a developer or builder active in the same phase or section where the use is located; and

(4) Is removed or the model home is converted into a permanent residential use once 85% occupancy in the section or phase of the development is reached.

(D) *Seasonal sales.* Seasonal sales shall:

(1) Be authorized in writing by the property owner if conducted on property not owned by the seasonal sale operator;

(2) Not be located within any right-of-way;

(3) Not reduce available parking areas below that which is required by code;

(4) Not obstruct emergency vehicle access to adjacent lots or disrupt pedestrian circulation or traffic;

(5) Provide adequate ingress, egress and off-street parking areas; and

(6) Be subject to the sign standards in §156.130-§156.141

(7) Shall be subject to standards in the city code as may be applicable per Building and Zoning codes

(E) *Temporary tent, canopy, tarp garage, or hoop building for Seasonal sales are allowed if:*

(1) In R-1 or R-2 Single Family home Zoning District (no townhome or multi-family unit)

(2) Minimum lot size 10,000 square feet

(3) A Conditional Use Permit has been approved for Home Occupation

(4) Total square footage does not exceed 200 square feet or 10 feet in height

(5) Erected from April 1 to June 30 for business/retail purposes only

(6) Must be disassembled each year.

(7) Not used for storage.

(8) Only one structure allowed.

(9) The lot or site shall be restored to its original condition within two days of removal of the tent, canopy, tarp garage, or hoop building.

(10) Not located in the front yard

§99.99 PENALTY.

A violation of this section is a misdemeanor criminal offense, and is punishable by up to 90 days in jail and a fine of up to $1,000.00. Each day a violation occurs is separate offense.

Passed this ____ day of _____, 2025.

_____
Mayor Dave Dillan

ATTEST:

_____
Tammy Pfaff, City Manager

First Reading:
Second Reading:
Published:_____

ORDINANCE NO. XXX

AN ORDINANCE TO THE CITY CODE

TITLE XV (LAND USAGE) OF THE CITY CODE AMENDING CHAPTER 156 (ZONING) SECTION 036 (R-2, ONE AND TWO FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT) (E) USES REQUIRING A CONDITIONAL USE PERMIT

THE CITY COUNCIL OF THE CITY OF MILACA, MINNESOTA ORDAINS AS FOLLOWS:

Chapter 156.036 (E) Uses Requiring a Conditional Use Permit is hereby amended to add the following:

(12) Seasonal Greenhouse or Seasonal Business

Passed this _____ day of _____, 2025.

_____

Mayor Dave Dillan

ATTEST:

_____

Tammy Pfaff, City Manager

First Reading_____

Second Reading_____

Published_____

§ 156.036 R-2, ONE AND TWO FAMILY RESIDENTIAL MEDIUM DENSITY DISTRICT.

(A) *Purpose.* The purpose of the One and Two Family Residential District is to provide for medium density housing in one and two family structures and directly related, complimentary uses where public sewer and water can be provided.

(B) *Minimum requirements.*

Requirement	***Conditions***	***Type of Dwelling***	***Dimension***
Requirement	***Conditions***	***Type of Dwelling***	***Dimension***
Building, area			See table in § 156.060
Building height, maximum			2.5 stories or 35 ft.
Lot, minimum area	Public sewer	Single family residence	10,000 sq. ft.
	Public sewer	Two family residence	10,000 sq. ft.
	Public sewer	Townhomes	5,500 sq. ft. per unit
Lot, minimum width		Single family residence	80 ft.
		Two family residence	80 ft.
Front yard, minimum			30 ft.
Rear yard, minimum			10 ft.
Side yard, minimum	Interior lot		10 ft.
	Public and semi-public buildings adjacent to residential zoned lot		15 ft.
	Corner lot		30 ft.

(C) *Permitted principal uses.*

(1) Single family residence;

(2) Two family residence;

(3) Park, golf course, other non-commercial recreation uses;

(4) Public and parochial schools;

(5) Public utilities buildings;

(6) Essential services;

(7) Manufactured homes; and

(8) Farming operations on property of ten acres or more.

(D) *Permitted accessory uses.*

(1) Off-street parking spaces and garages as required in this chapter;

(2) Recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use residence and their guests;

(3) Tool houses, sheds, and similar buildings for storage of domestic supplies and non- commercial recreational equipment; and

(4) Fencing, screening, and landscaping as permitted and regulated in this chapter.

(E) *Uses requiring a conditional use permit.*

(1) Cemeteries;

(2) Non-profit recreational uses;

(3) Off-street parking lots;

(4) Nursing homes, rest homes;

(5) Clubs and lodges;

(6) Multiple family dwellings;

(7) Planned unit developments as regulated by this chapter;

(8) Home occupations; and

(9) Conversions of single family units into multi-family dwellings provided that:

(a) No existing single family dwelling shall be converted into more than four dwelling units;

(b) All units shall comply with city rental ordinances;

(c) Adequate off-street parking is provided in accordance with this chapter;

(d) Each unit shall meet the minimum health and safety requirements as provided for in the Minnesota State Building Code and Minnesota State Fire Code and shall be inspected by local building inspector and fire inspector and inspection report submitted to City Hall;

(e) *Lot size.* Buildings cannot exceed 60% of property; and

(f) Lots must be serviced with city water and sewer.

(10) Manufactured home parks licensed by the State Department of Health;

(11) Accessory structures larger and/or taller than the principal building.

(Ord. 134/94, passed 3-24-94; Am. Ord. 99-2, passed 7-15-99; Am. Ord. 332, passed 1-16-03; Am. Ord. 453, passed 7-18-19; Am. Ord. 483, passed 6-16-21; Am. Ord. 519, passed 12-21-23)

ORDINANCE NO. XXX

AN ORDINANCE TO THE CITY CODE

TITLE XV (LAND USAGE) OF THE CITY CODE AMENDING CHAPTER 156 (ZONING) SECTION 038 (B-1 CENTRAL BUSINESS DISTRICT) (F) USES REQUIRING A CONDITIONAL USE PERMIT

THE CITY COUNCIL OF THE CITY OF MILACA, MINNESOTA ORDAINS AS FOLLOWS:

Chapter 156.038 (F) Uses Requiring a Conditional Use Permit is hereby amended to add the following:

(15) Seasonal Greenhouse or Seasonal Business

Passed this _____ day of _____, 2025.

_____

Mayor Dave Dillan

ATTEST:

_____

Tammy Pfaff, City Manager

First Reading_____

Second Reading_____

Published_____

§ 156.038 B-1, CENTRAL BUSINESS DISTRICT.

(A) *Purpose.* This district is designed and intended as a specialized district directed to serve the pedestrians in a compact central area for the city. The B-1 District will provide for a high density shopping and business environment, especially stressing the pedestrian function and interaction of people and businesses.

(B) *Minimum requirements.*

Requirement	***Conditions***	***Dimension***
Requirement	***Conditions***	***Dimension***
Building, area		No minimum
Building height, minimum		3 stories or 35 ft., whichever is the lesser
Lot area		No minimum
Lot width		No minimum
Front yard		No minimum
Rear yard	Most cases	No minimum
	Abutting a residential zoned lot	30 ft.
Side yar	Most cases	No minimum
	Abutting a residential zoned lot	10 ft.

(C) *Special requirements.*

(1) Every use shall be conducted within a completely enclosed structure, except as indicated or allowed by conditional use.

(2) Marquees and canopies may project to within not more than two feet of the curb of the street, provided the base of any marquee or canopy is at least eight feet above the grade of the sidewalk.

(3) Heating, ventilation, air conditioning units (HVAC), whether roof-mounted or wall-mounted, shall be located not less than eight feet above existing grade, and shall not project more than 24 inches beyond the vertical outside wall of the structure upon which they are mounted that is adjacent to a right-of-way. Said units shall match the exterior color of the building. Each HVAC shall be equipped with a catchment basin to contain condensation, moisture, drippings or other residue of any kind, which shall drain by conduit to a disposal location within the building.

(4) Business signs and advertising devices shall be regulated by §§ 156.130 *et seq*.

(D) *Permitted principal uses.*

(1) Antique store;

(2) Apparel and accessory store;

(3) Appliance store, sales, and service;

(4) Art supply store;

(5) Art gallery;

(6) Artist studio or school;

(7) Auto parts and accessory sales;

(8) Bakery retail;

(9) Bank, including drive-through;

(10) Barber shop;

(11) Bars and taverns;

(12) Beauty shop;

(13) Blueprinting and photostating;

(14) Bicycle sales and repairs;

(15) Book store;

(16) Brew Pubs;

(17) Business machines store;

(18) Café;

(19) Camera and photographic supply store;

(20) Candy, ice cream, and confectionary store, in which all manufacturing is permitted only as an accessory use and is limited to 15% of the gross floor area of this use;

(21) Catalog and mail order house;

(22) Caterer;

(23) Clinic, dental or medical, but not animal clinic or animal hospital;

(24) Clothing store;

(25) Dance studio;

(26) Delicatessen store;

(27) Department store;

(28) Dressmaking, seamstress;

(29) Drugstore;

(30) Fabric store;

(31) Fire hall;

(32) Floral sales;

(33) Food locker plant;

(34) Furniture store and home furnishings;

(35) Garden supplies store; need not be enclosed, provided all unenclosed portions of the use are located on the rear one-half of the zoning lot;

(36) Gift, novelty, or souvenir store;

(37) Grocery store;

(38) Hardware store;

(39) Health equipment store;

(40) Hotel;

(41) Interior decorator;

(42) Jewelry store;

(43) Laboratory, dental or medical;

(44) Liquor store (off-sale);

(45) Locksmith;

(46) Luggage store;

(47) Masage therapy not regulated by the Adult Use Ordinanace;

(48) Meat market and processing, including slaughtering. Allowed on one acre or more;

(49) Motel;

(50) Motorcycle shop;

(51) Mortuary;

(52) Music store, accessories, and studio;

(53) Newsstand;

(54) Office of any type;

(55) Optician;

(56) Optical goods;

(57) Paint and wallpaper store;

(58) Photographic studio or picture processing;

(59) Public buildings, city hall, library, museum;

(60) Radio and television broadcasting, excluding transmitter;

(61) Restaurants;

(62) Savings and loan association, state or federally chartered, including drive- through facilities;

(63) Secondhand shops;

(64) School (private);

(65) Shoe repair shop;

(66) Sporting goods store;

(67) Tailor;

(68) Telephone exchange;

(69) Theater, not including drive-in theater;

(70) Theatrical studio;

(71) Ticket agency;

(72) Toy store;

(73) Travel bureau or agency; and

(74) Variety store.

(E) *Permitted accessory uses.*

(1) Commercial or business structures for use accessory to principal use;

(2) Off-street parking and loading spaces;

(3) Business signs regulated by §§ 156.130 *et seq.*; and

(4) Fencing and screening as permitted by this chapter.

(F) *Uses requiring a conditional uses permit.*

(1) Residential units in conjunction with the principal structure;

(2) Multiple family dwellings;

(3) Gas stations, service stations;

(4) Supply yards;

(5) Wholesale businesses;

(6) Drive-through establishments not specifically permitted as principal use;

(7) Churches;

(8) Lumber yards;

(9) Veterinary clinics;

(10) Any use requiring outdoor storage or sales space;

(11) Public garage;

(12) The unenclosed parking of trucks as an accessory use, when used in the conduct of a permitted business;

(13) Commercial uses determined by the City Council to be of the same general character as identified permitted and conditional uses and found not to be detrimental to the general public health and welfare. Uses grandfathered in when this chapter was adopted may reasonably expand by changing or adding products if approved by the City Council; and

(14) Planned unit developments and condominiums.

(G) *Minimum standards for exterior architecture.*

(1) *Purpose.* The purpose of this division is to establish minimum standards for exterior architecture of commercial, residential, office and industrial buildings, to ensure high quality of development, redevelopment and compatibility with evolving architectural or planning themes that contribute to a community image of quality, visual aesthetics, permanence and stability that are in the best interest of the citizens of the city.

(a) These standards are intended to prevent use of materials that are unsightly, rapidly deteriorate, contribute to depreciation of area property values, or cause urban blight.

(b) These structural standards are further intended to ensure coordinated design of building exteriors, additions and accessory structure exteriors, in order to prevent visual disharmony; minimize adverse impacts on adjacent properties from buildings that are or may become unsightly, and buildings that detract from the character and appearance of the area.

(c) It is not the intent of this division to unduly restrict design freedom, when reviewing and approving project architecture in relationship to the proposed land use, site characteristics, and interior building layout.

(2) *Applicability.* The design standards in this division shall apply to the following:

(a) All facades of new principle buildings.

(b) All facades of new accessory buildings.

(c) Remodeling of existing buildings that result in "refacing" more than one side of the existing building, or refacing the wall oriented toward the nearest public road.

(d) Additions to buildings that increase the gross floor area by more than 15% for commercial or retail buildings. Additions not exceeding these thresholds may be constructed using exterior materials that match or are compatible with the existing building materials and colors.

(e) All subsequent additions and alterations constructed after the erection of an original building or buildings shall be of the same materials as those used in the original building, and shall be designed in a manner conforming to the original architectural concept and general appearance. These provisions shall not prevent the city from requiring upgrading of the quality of materials used in a remodeling or expansion program.

(3) *Building design and construction standards.*

(a) *Required materials.* In the B-1 zoned district, on all the walls that face a public street, at least 50% of the entire exterior wall surface shall be constructed on one of the following materials:

1. Face brick;
2. Rock face block;
3. Cementitious siding;
4. Natural stone or stone veneers;
5. Glass;
6. Masonry stucco;

7. Synthetic stucco;

8. Exterior Insulation and Finish Systems (EIFS);

9. Concrete block.

(b) *Prohibited materials.* Under no circumstances shall sheet plywood, sheet metal, corrugated metal, galvanized metal, unfinished metal, asbestos, iron, or plain concrete block (whether painted or color-integrated or not) be deemed acceptable as exterior wall materials on buildings.

(Ord. 134/94, passed 3-24-94; Am. Ord. passed 9-15-94; Am. Ord. 375, passed 6-12-08; Am. Ord. 390, passed 6-10-10; Am. Ord. 402, passed 6-13-13; Am. Ord. 453, passed 7-18-19; Am. Ord. 511, passed 6-20-23)

ORDINANCE NO. XXX

AN ORDINANCE TO THE CITY CODE

TITLE XV (LAND USAGE) OF THE CITY CODE AMENDING CHAPTER 156 (ZONING) SECTION 057 (ACCESSORY BUILDINGS, STRUCTURES, AND USES) (D)(1)

THE CITY COUNCIL OF THE CITY OF MILACA, MINNESOTA ORDAINS AS FOLLOWS:

Chapter 156.057 (D)(1) is hereby amended to read:

(1) No tarp like structures allowed unless a Conditional Use Permit has been approved for a Seasonal Greenhouse or Seasonal Business Sales from April 1-June 30.

Passed this _____ day of _____, 2025.

_____

Mayor Dave Dillan

ATTEST:

_____

Tammy Pfaff, City Manager

First Reading_____

Second Reading_____

Published_____

§ 156.057 ACCESSORY BUILDINGS, STRUCTURES, AND USES.

(A) (1) No accessory building or structure other than a fence or a temporary construction office shall be permitted on any lot prior to the time of construction of the principal building.

(2) Pursuant to authority granted by M.S. § 462.3593, Subd. 9, the city opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings.

(B) Whenever a garage is so designed that it is to be entered directly from a side street or alley, the distance between the doors and the lot line shall be 18 feet or more.

(C) (1) No detached accessory building shall be located in the front yard.

(2) A detached garage or utility building shall meet the following requirements:

(a) Side yard setback shall be a minimum of five feet from the side lot line.

(b) Rear yard setback shall be five feet from the rear lot line.

(c) An accessory building shall not exceed 20 feet in height.

(d) Accessory building shall not be larger or taller than the principal building.

(D) The architectural design and appearance of all buildings in the residential zone must have residential type siding as determined by Zoning Administrator.

(1) No tarp like structures allowed.

(2) No corrugated metal.

(3) No cargo containers.

(E) *Accessory buildings, structures and uses in a farming operation.*

(1) Pole type structures and corrugated metal siding are allowed.

(2) There is no maximum size of the accessory structure.

(3) The maximum height of the structure is 35 feet.

(4) The structure must be a minimum of 100 feet from the property line.

(5) Detached accessory structures cannot be in the front yard.

(Ord. 134/94, passed 3-24-94; Am. Ord. 335, passed 4-17-03; Am. Ord. 350, passed 5-20-04; Am. Ord. 420, passed 8-18-16; Am. Ord. 453, passed 7-18-19; Am. Ord. 480, passed 4-15-21; Am. Ord. 483, passed 6-16-21)

From: Greg Kuperus
To: Deloris Katke
Subject: Re: Planning Commission Meeting
Date: Tuesday, February 18, 2025 7:33:14 AM
Attachments: image001.png

I am able to attend 3/10.

I'm afraid that this will be my last meeting, though. I have sold my house and will be moving out of town on May 1.

On Thu, Feb 13, 2025 at 9:34 AM Deloris Katke <dkatke@milacacity.com> wrote:

> Looks like we will be needing a Planning Commission meeting in March. Right now the only item on the agenda would be to approve a new Ordinance for Temporary Structures (Tarp-Like Structures). This will require a public hearing.
>
> This has been discussed in the past and currently we do not allow any Tarp-Like Structures other than in B-1 and B-2 zoning districts, but the city has received a letter from the Rusty Shovel Garden located at 355 2nd Ave NW to consider allowing them a tarp-like structure for their greenhouse to start flowers indoors. They do have a Conditional Use Permit for their flower business that was approved in August of 2022. Last year during one of our Public Nuisance inspections, it was observed that they had a tarp-like structure up. They were sent a letter advising them tarp-like structures were not allowed and they did comply and took structure down. She is now requesting to have a 10x20 temporary structure up from April to June to start seedlings. This is zoned for R-2 One and Two Family Residential.
>
> I have attached Ordinances that, if approved, would need to be changed to allow Temporary Structures for your review. I am sending this out early so you can give this topic some thought and get questions ready. These attachments were reviewed by our city attorney and he said they look good. HOWEVER, these are not set in stone and be changed and modified.
>
> Please click on the following links to review the previous Ordinances that allowed Tarp-Like Structures in the B-1 and B-2 zoning districts.
>
> https://cityofmilaca.org/ordinances
>
> We are looking at March 10th for a meeting date. This will allow enough time to get a notice in the paper for the Public Hearing. Please let me know if you would be able to

attend on that date. PLEASE DO NOT REPLY TO ALL. A full agenda will be emailed at a later date.

If you have any questions in the meantime, please email Tammy at tpfaff@milacacity.com.

Thank you,

Deloris Katke

Assistant City Clerk/Accounts Payable

320-983-3141

CITY OF MILACA Minnesota
255 First Street East, Milaca, MN 56353 (320)983-3141 | (320)983-3142 fax

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Greg Kuperus