

**ORDINANCE NO. O2018-002**

**AN ORDINANCE OF THE CITY OF SHAKOPEE AMENDING TITLE XV OF THE CITY CODE BY MODIFYING DENSITIES TO RESIDENTIAL USES IN MAJOR RECREATION ZONES AS PART OF A PUD.**

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**THE CITY COUNCIL OF THE CITY OF SHAKOPEE, MINNESOTA, ORDAINS:**

151.044 Major Recreation Zone (MR) of the City Code is amended to add the following

(A) *Purpose.* The purpose of the Major Recreation Zone is to create a high-quality environment for large amusement and recreation attractions with a regional draw, with a high degree of land use compatibility and street efficiency. It is further the intent of the Zone to protect existing landscape features, to preserve open space, to sensitively integrate development with the natural landscape, and to require the planning of entire land ownerships as a unit rather than permit piecemeal or scattered small developments.

(B) *Permitted uses.* Within the Major Recreation Zone, no structure or land shall be used except for one or more of the following uses:

(1) Public recreation;

(2) Restaurants, Class I; except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located;

(3) Restaurants, Class II, except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located;

(4) Public buildings;

(5) Utility services;

(6) Utility service structures, subject to the following requirements:

(a) Shall not be a water tower or electrical substation or a building constructed to house sanitary lift station controls;

(b) Shall be 20 feet or less in height;

(c) May be used only to provide weather protection for utility equipment;

(d) Shall be designed, placed, and landscaped as necessary to assure that it blends with the neighboring uses, and is unobtrusive;

(e) Shall comply with all applicable design standards; and

(f) Single- and mixed-use developments which comply with § 151.048, and have received approval from the City Council;

(7) Uses having a drive-up or drive-through window, subject to the following requirements:

(a) Shall be screened to a height of 6 feet from any adjacent residential zone;

(b) Shall not have a public address system which is audible from any residential property;

(c) Shall provide stacking for at least 6 vehicles per aisle. The required stacking shall not

interfere with internal circulation patterns or with designated parking facilities, and shall not be located in any public right-of-way, private access easement, or within the required parking setback;

(d) Trash receptacles, including, but not limited to, dumpsters, shall be stored in any enclosed areas, including the top. The enclosed areas shall be constructed of similar and/or complementary materials to the principal structure and meet the standards of this code of ordinances.

(8) Relocated structures, subject to the following requirements

(a) Shall obtain a moving permit from the city under § 111.07;

(b) Prior to moving, the applicant shall have given cash, a cashier's check, or letter of credit as a financial guarantee to the city to ensure completion of all work. The financial guarantee shall be in an amount equal to the Building Official's estimate of the cost to bring the structure into compliance with the Building Code;

(c) The structure shall meet all requirements of the Building Code within 6 months after moving;

(d) If the structure is not in full compliance with the Building Code after 6 months of moving, the city, in its sole discretion, may draw on the financial guarantee and take whatever steps it deems necessary to bring the relocated structure into compliance with the Building Code. In the event the city draws on the financial guarantee, 10% of the total guarantee shall be paid to the city as its administrative fee;

(e) The applicant shall provide the Building Department with all plan review comments and inspection records from Building Codes and STDS Division and from the city of origin where constructed;

(f) An approved county highway moving permit will be required for the moving of the structure;

(g) The structure shall be required to meet all setbacks, design, and performance standards specified in this code of ordinances, unless otherwise approved; and

(h) Repair of any damage to city streets as a result of relocating the structure shall be paid for by the applicant.

(9) Brewpubs.

(10) Taverns, except those having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the tavern is located is less than 100 feet from the nearest point of the property where a residential use is located.

(C) *Conditional or planned unit development uses.* Within the Major Recreation Zone, no structure or land shall be used for the following uses except by conditional use permit or planned unit development:

(1) Restaurants, Class I or Class II, that have an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the restaurant is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013;

(2) Commercial recreation, major or minor;

(3) Hotels, motels, and conference centers;

(4) Horse care uses including boarding, training, showing, grooming, and veterinary clinic facilities;

- (5) Retail uses and entertainment facilities;
- (6) Administrative, executive, and professional offices;
- (7) Health and athletic facilities;
- (8) Private lodges and clubs;
- (9) Day care facilities;
- (10) Adult day care centers as conditional use, subject to the following conditions:
  - The adult day care centers shall:
    - (a) Serve 13 or more persons;
    - (b) Provide proof of an adequate water and sewer system if not served by municipal utilities;
    - (c) Have outdoor leisure/recreation areas located and designed to minimize visual and noise impacts on adjacent areas;
    - (d)
      - 1. The total indoor space available for use by participants must equal at least 40 square feet for each day care participant and each day care staff member present at the center. When a center is located in a multi-functional organization, the center may share a common space with the multi-functional organization if the required space available for use by participants is maintained while the center is operating.
      - 2. In determining the square footage of usable indoor space available, a center must not count:
        - a. Hallways, stairways, closets, offices, restrooms, and utility and storage areas;
        - b. More than 25% of the space occupied by the furniture or equipment used by participants or staff; or
        - c. In a multi-functional organization, any space occupied by persons associated with the multi-functional organization while participants are using common space.
    - (e) Provide proof of state, federal, and other governmental licensing agency approval; and
    - (f) Comply with all other state licensing requirements.
- (11) Structures over the height allowed based on their setback;
- (12) Developments containing more than one principal structure per lot;
- (13) Farm wineries producing less than 50,000 gallons of wine per calendar year;
- (14) Micro-distilleries;
- (15) Small breweries with taprooms;
- (16) Utility structures which do not meet the standard conditions under the permitted uses;
- (17) Power generation facilities;
- (18) Churches and other places of worship;
- (19) Taverns having an outdoor patio or congregation area that customers are allowed to use after 10:00 p.m. and where the nearest point of the property on which the tavern is located is less than 100 feet from the nearest point of the property where a residential use is located. Additional standards for such uses are contained in § 151.013; or
- (20) Other uses similar to those permitted by this division (C), upon a determination by the Board of Adjustment and Appeals, may be allowed upon the issuance of a conditional use permit.
- (21) Residential uses where it is an incidental use of no more than ~~twenty percent of the total land area~~ **40 acres at Canterbury and 20 acres at Valleyfair** and ~~is~~ **must be** part of a Planned Unit Development.

(D) *Permitted accessory uses.* Within the Major Recreation Zone, the following uses shall be permitted accessory uses:

- (1) Parking and loading spaces;
- (2) Temporary construction buildings;
- (3) Decorative landscape features;
- (4) Communication service apparatus/device(s) as permitted accessory uses, subject to the following conditions:
  - (a) Shall be co-located on an existing tower or an existing structure;
  - (b) Must not exceed 175 feet in total height (including the extension of any communication service device(s) apparatus);
  - (c) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;
  - (d) Signage shall not be allowed on the communication service device(s)/apparatus other than danger or warning type signs;
  - (e) Must provide proof from a professional engineer that the equipment will not interfere with existing communications for public safety purposes;
  - (f) Shall be located and have an exterior finish that minimizes visibility off-site to the maximum extent possible;
  - (g) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;
  - (h) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site;
  - (i) The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices(s)/apparatus;
  - (j) Wireless telecommunication towers and antennas will only be considered for city parks when the following conditions exist and if those areas are recommended by the Parks and Recreation Advisory Board and approved by the City Council:
    1. City parks of sufficient size and character that are adjacent to an existing commercial or industrial use; and
    2. Commercial recreation areas and major play fields used primarily by adults.
  - (k) All revenue generated through the lease of a city park for wireless telecommunication towers and antennas should be transferred to the Park Reserve Fund.
- (5) Towers for commercial wireless telecommunications services shall only be allowed subject to the following conditions:
  - (a) Shall also operate as a public utility structure;
  - (b) Shall be located within the public rights-of-way;
  - (c) Shall be limited to 75 feet in height;
  - (d) Shall limit the height of antennas and communication service devices to 10 feet beyond the height of the structure;
  - (e) No setback shall be required when located in the public rights-of-way;
  - (f) Turf or other materials shall be established in the right-of-way consistent with the materials in the right-of-way at the time of installation;

- (g) Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies;
  - (h) Shall be protected with corrosive resistant material;
  - (i) Signage shall not be allowed on the tower other than danger or warning type signs;
  - (j) Must provide proof from a professional engineer that the equipment is not able to be collocated on any existing or approved towers and prove that the planned tower will not interfere with existing communications for public safety purposes;
  - (k) Must be built to accommodate antennas being placed at varying heights on the tower;
  - (l) Existing vegetation on the site shall be preserved to the maximum extent possible;
  - (m) Shall be surrounded by a security fence 6 feet in height with a lockable gate;
  - (n) Shall have an exterior finish that minimizes visibility off-site to the greatest extent possible;
  - (o) Applicable provisions of this code of ordinances, including the provisions of the State Building Code therein adopted, shall be complied with;
  - (p) No tower shall be permitted unless the equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the one-half mile search radius of the proposed tower for any of the following reasons:
    1. The necessary equipment would exceed the structural capacity of the existing or approved tower or building and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost, as certified by a qualified, licensed professional engineer;
    2. The necessary equipment would cause interference as to significantly impact the usability of other existing or planned equipment at the tower, structure, or building and the interference cannot be prevented at a reasonable cost, as certified by a qualified, licensed structural engineer;
    3. Existing or approved towers and buildings within the one-half mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified, licensed professional engineer; or
    4. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.
  - (q) All obsolete or unused towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. After the facilities are removed, the site shall be restored to its original or an improved state. The user of the tower and/or accompanying accessory facilities shall be responsible for the removal of facilities and restoration of the site; and
  - (r) The applicant shall submit a plan illustrating anticipated sites for future location for communication towers and/or communication device (s)/apparatus.
- (6) Other accessory uses customarily appurtenant to a permitted use, as determined by the Zoning Administrator.

(E) *Design standards.* Within the Major Recreation Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following minimum requirements:

(1) *Density*: ~~minimum lot area: 10 acres~~; **Must be part of a PUD and no more than 40 28** dwelling units per acre;

(2) *Maximum impervious surface percentage*: 80%;

(3) *Lot specifications*.

(a) *Minimum lot width*: 300 feet;

(b) *Minimum front yard setback*: 1/2 of that structure's height or 50 feet, whichever is greater; residential setback can be from zero to 30 feet. Zero setback is allowed in areas where there is an urban character that includes pedestrian connections and wider than required sidewalks with boulevard street trees.

(c) *Minimum side yard setback*: 1/2 One-half of that structure's height or 25 feet, whichever is greater; residential is 20 feet.

(d) *Minimum rear yard setback*: 1/2 of that structure's height or 30 feet, whichever is greater; and residential is 20 feet.

(e) *Minimum rear yard setback from residential zones*: 1/2 of that structure's height or 50 feet, whichever is greater and residential use to residential zone is 20 feet.

(4) *Minimum access spacing*.

(a) County Roads 83 and 16: no access is allowed other than to public and private streets with a minimum spacing of 600 feet; and


(b) Shenandoah Drive and any continuation thereof to and including Secretariat Drive; and Fourth Avenue. Street and driveway access points must be separated by a minimum of 300 feet.

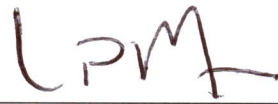
Section 4. Effective Date. This ordinance shall be in effect from and after the date of its passage and publication

Adopted in regular session of the City Council of the City of Shakopee, Minnesota, held this 3rd day of April, 2018.

ATTEST:

City Clerk

  
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Mayor of the City of Shakopee