

CITY OF VICTORIA
COUNTY OF CARVER
STATE OF MINNESOTA

ORDINANCE NO. 420

AN ORDINANCE AMENDING SECTION 109 OF THE
VICTORIA CITY CODE, THE CITY'S OFFICIAL ZONING ORDINANCE,
BY REPEALING AND REPLACING IN THEIR ENTIRETY ARTICLE I (IN
GENERAL), ARTICLE II (ADMINISTRATION AND ENFORCEMENT), AND
ARTICLE III (ZONING DISTRICTS).

THE CITY COUNCIL OF THE CITY OF VICTORIA ORDAINS:

Section 1. Section 109 of the Victoria City Code, the City's official zoning ordinance, is hereby amended by repealing and replacing in its entirety, Article I (In General), Article II (Administration and Enforcement) and Article III (Zoning Districts) as described herein below:

Article I - In General

Section 109-1. Definitions

Accessory Apartment means a secondary dwelling unit established in conjunction with and subordinate to a primary dwelling unit, whether as part of the same structure and primary dwelling unit or a detached dwelling unit on the same lot.

Accessory Dwelling Unit means a residential dwelling unit located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building.

Accessory Use means a use incidental to and customarily associated with a specific principal use, located on the same lot or parcel.

Accessory Storage Shed means a subordinate structure detached from a principal use for storage of domestic supplies and goods.

Administrative Official means the person determined by the City Manager or Community Development Director.

Affordable Housing means housing units where the occupant is paying no more than 30 percent of gross income for housing costs, including taxes and utilities.

Agricultural Use means the use of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops, or feeding, breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees, or by dairying and the sale of dairy products. It also includes the current employment of land for the primary purpose of obtaining a profit by stabling or training equines including but not limited to, providing riding lessons, training clinics and schooling shows.

Alley means an unnamed public or private right-of-way less than 22 feet wide that is primarily designed to serve as secondary access to the rear or side of those properties whose principal frontage has access from a different street.

Annexation means the act or process of adding land to a governmental unit, usually an unincorporated place, by an ordinance, a court order, or other legal action.

Apartment Building means a building or structure arranged, intended, and designed to be occupied by three or more families living independently of each other, and each including its own separate kitchen and bathroom accommodations.

Auto Repair, Major means General repair, rebuilding of engines, motor vehicles, or trailers, including body work, framework, welding, and major painting service.

Auto Repair, Minor means the replacement of any part or repair of any part that does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work, minor painting and upholstering service.

Basement (Lower Level) means that portion of a building located partially underground but having half or less than half of its floor-to-ceiling height below the average *grade* of the adjoining ground.

Board of Adjustment and Appeals means a quasi-judicial body whose principal duties are to hear and decide matters related to variances and the strict application of the zoning code and to grant special exceptions and conditional uses as provided by law.

Building Height means the vertical distance between the ground elevation abutting a building and the midpoint elevation of the highest gable of a pitched or hipped roof.

Building, Principal means a building in which the primary use of the lot on which the building is located and conducted.

Building Setback Line means the minimum distance prescribed by Code between any property line and the closest point of the foundation or any supporting post or pillar of any related building or structure.

Bulk Regulations means the standards and controls that establish the minimum and maximum size of buildings and structures on a lot and the buildable area within which the building can be located, including impervious surface coverage, setbacks, height, and yard requirements.

Cantilever is a rigid structural element with perpendicular connection to a flat vertical surface. Cantilevers may encroach into a required setback by two feet in depth away from the principal structure. Overhang eaves not supported by posts or pillars which do not encroach more than three feet into the setback are permitted.

Central Business District means the major downtown center of a community.

Cemetery or Memorial Garden means the land used for the burial or memorialization of the dead.

Certificate of Occupancy means the written approval of the Building Official certifying that a newly constructed structure, addition to an existing structure, or existing structure undergoing a change in use is in full compliance with the provisions of this ordinance and that such structure is habitable and in conformance with all applicable building codes and regulations.

Cluster Development means development that divides land into individual lots that may be reduced in order to gain common open space.

Commercial Use Antenna means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of a building.

Conceptual Development Plan means a conceptual design by a land developer of a proposed land division for discussion purposes.

Conditional Use means a permit which may be granted under the provisions of this title which authorizes a particular use to be made a specific property, subject to compliance with all the terms and conditions contained in the permit.

Condominium Complex means a multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities.

Corner Lot, is a lot located at the intersection of two or more streets. A corner lot is considered to have two front yard and both sides abutting a street are required to meet required front yard setbacks of the zoning district.

Country Club means a club with recreation facilities for members, their families, and invited guests.

Curb means a stone or concrete boundary usually making the edge of a roadway or paved area,

Decibel means a unit of measurement of the intensity of sound level.

Deck means a roofless outdoor space built as an aboveground platform projecting from the wall of a building and is connected by structural supports at grade or by the building structure.

Density, gross means the numerical value obtained by dividing the total number of dwelling units in a development by the gross area of the tract of land within a development.

Density, net means the total number of dwelling units divided by the net project area. Net acreage does not include land covered by wetlands, water bodies, public parks and trails, public open space, arterial road rights-of-way, and other undevelopable acres identified in or protected by local ordinance such as steep slopes.

Detached Garage means a building or structure not attached to a principal use used or designated to be used for the parking and storage of vehicles.

Development Agreement means a voluntary contract between a local jurisdiction and a person who owns or controls property within the jurisdiction, detailing the obligations of both parties and specifying the standards and conditions that will govern the development of the property.

Dwelling means a building or part of a building that contains living, sleeping, cooking accommodations, and sanitary facilities for occupancy of one or more families.

Dwelling, Multifamily (Apartment or Condominium) means any building or portion thereof containing three or more rooms or suites which is designed, built, rented, leased and which is occupied at the same time for residence of families or individuals living independently of each other. The units may be attached horizontally, vertically, or both.

Dwelling, Rowhome means a multifamily structure consisting of a series, three or more, of attached one-family dwelling units connected by one or more common sidewalls and forming a continuous building with each dwelling unit owned independently.

Dwelling, Single Family means a standalone home maintained and used as a single-family dwelling unit.

Dwelling, Single Family Association means a single-family dwelling and associated property where all exterior property maintenance, for both common and private properties, is completed by a homeowner's association. Maintenance includes but is not limited to snow removal, lawn care, common landscaping throughout the development and neighborhood and monument sign maintenance.

Dwelling, Semi-detached means a single structure containing two one-family dwelling units connected by a common sidewall, with each dwelling unit owned independently.

Dwelling, Townhome means a multi-family structure consisting of a series, three or more, of attached one-family dwelling units connected by one or more common sidewalls and/or rear walls, forming a continuous building with each one-family dwelling unit owned independently.

Dwelling Unit means a single unit providing a complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Facility, Day Care means a facility or dwelling unit that provides care for children or adults that do not reside in the facility, are present during daytime hours, and do not regularly stay overnight that may include some instruction.

Facility, Private Recreational means a Recreational facility only open to members and guests of the private organization operating the facility.

Facility, Residential Care means a facility that provides primarily nonmedical resident services to individuals in need of personal assistance essential for activities of daily living.

Facility, State-licensed residential means a state-licensed and mandatory residential facility occupied by persons in need of specialized treatment or protection and resident staff who live together as a single housekeeping unit, usually for a limited period of time.

Family means two or more persons related to each other by blood, marriage, or legal adoption living together as a single housekeeping unit; or a group of not more than three persons who need not be related by blood, marriage, or legal adoption, living together as a single housekeeping unit and occupying a single dwelling unit.

Fee Schedule means a payment of funds to the city for any of the applications or other entitlements as determined by the City Council.

Fence means an enclosure or barrier for protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth.

Final Development Plan means a final design of a proposed plan with supported data prepared for development containing those elements and requirements as set forth for final development plans in this chapter.

Foot-candle means a unit of measurement referring to illumination incident to a single point. One foot candle is equal to one lumen uniformly distributed over an area of one square foot.

Frontage means the façade of the building that abuts the required front yard as stipulated in this zoning code.

Garage means a building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles.

Golf Course means a tract of land with at least nine holes for playing a game of golf with tees, greens, fairways, and hazards. A golf course can include a clubhouse and shelters as accessory uses.

Grading, excavating means removal, excavating or grading of 100 cubic yards or more of dirt, earth, gravel, sand, clay or other material or a combination of materials on a parcel of land, unless approved as part of the subdivision plan, planned unit development, public improvement project or as part of an approved building permit which includes a plan for grading or excavating.

Greenhouse means a building or structure constructed of glass or glasslike material which is devoted to the cultivation of flowers, plants, or produce.

Group Home means an establishment qualified for a license by the state of Minnesota which provides resident services to individuals of whom are unrelated. The individuals are handicapped, aged, or disabled, are undergoing rehabilitation or extended care, and are provided services to meet their needs.

Hardship means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this chapter.

Hotel means a facility offering transient lodging accommodations consisting of ten or more units to the general public and oftentimes providing additional services such as food, meeting rooms and recreational facilities.

Impervious Surface means a surface composed of any material that impedes or prevents natural infiltration of fluid into soil. Impervious surfaces shall include but are not limited to roofs, patios, driveways, sidewalks, parking areas, and accessory structures. Wooden slatted decks and the surface area of a swimming pool shall be considered pervious.

Junk means any worn out or discarded materials including but not necessarily limited to scrap metal, inoperable motor vehicles and parts, construction materials, household wastes, including garbage and discarded appliances and yard debris.

Junkyard means any lot or parcel, building, or structure used in whole or in part for the storage, collection, processing or disposal of junk.

Kennel means a place where four or more dogs or four or more cats over four months of age are owned, boarded, bred or offered for sale.

Landfill means filling, placement or *grading* of 100 cubic yards or more of dirt, earth, gravel, sand, clay or other material or a combination of materials on a parcel of land.

Letter of Credit means a letter issued by a bank to serve as a guarantee for payments made to a jurisdiction under specified conditions.

Livestock means any animals or poultry or other fowl except dogs, cats and birds owned by the resident of the premises and kept as pets, but not for commercial sale, except incidental to their character as pets.

Loading Space means that portion of a lot or plot designed to serve the purpose of loading and/or unloading all types of vehicles.

Lot means land occupied or to be occupied by a building and its accessory building and having its principal frontage upon a street or officially approved place.

Lot Area means the total area bounded by lot lines excluding dedicated public rights-of-way.

Lot, Corner means a lot located at the intersection of two streets or a lot bounded on two sides by a curving street two chords of which form an angle of 120 degrees or less, measured on the lot side.

Lot, Double Frontage means the boundary of a lot abutting a street. On a corner lot, the shortest street lot line shall be the front lot line. On a lakeshore lot there shall be two front lot lines, one on the street side, the other on the lakeside.

Lot Depth means the mean horizontal distance between the front and rear lot lines.

Lot, Non-Riparian means a non-riparian lot does not include shoreland and does not directly abut a body of water. A buffer often separates the lot from a water body.

Lot of Record means a lot that is part of a recorded subdivision or a parcel of land that has been recorded at the county recorder's office containing property tax record.

Lot, Riparian means land that has shoreland and directly abuts a body of water.

Lot Width means the horizontal distance between the side lot lines, measured at right angles to the lot depth at the established front building line.

Lower Level (Basement) means that portion of a building located partially underground but having half or less than half of its floor-to-ceiling height below the average *grade* of the adjoining ground.

Minimum Floor Area means the sum of the areas of the floors of a building used for human occupancy. Cellars, unenclosed porches, attics not used for living space, space in an accessory structure, and area intended for motor vehicle storage are not considered for the calculation of minimum floor area.

Mixed Land Use means the development of a parcel of land with two or more uses including but not limited to residential, commercial, industrial within the same zoning classification arranged vertically or horizontally.

Municipal Facilities means services traditionally provided by local government, including water and sewer, roads, parks, schools, and police and fire protection.

Nursing Home means a home licensed by the state of Minnesota for the aged or chronically or incurably ill persons in which food, shelter, and care are provided devoted to the treatment of the sick, elderly or injured.

Official Map means a map, adopted the City Council through the Comprehensive Plan showing existing streets and approved proposed streets, parks, and other public places.

Physical Features means bodies of water and landforms including but not limited to wetlands, ponds, bluffs, steep slopes, and marshes.

Place of Worship means a building or group of buildings or structures, which by design and construction are primarily intended for a group of people gathering on the basis of religion, faith or belief system. Examples include but are not limited to churches, synagogues, mosques and temples.

Planned Unit Development means an integrated development guided by a total design plan in which the zoning or subdivision regulations may be varied to allow flexibility and creativity in site, building design, land use types, and location in accordance with general guidelines.

Preliminary Development Plan means a preliminary design by a land developer of a proposed land division including supporting data with proposed layout of streets, blocks, lots and other elements of a plat or subdivision.

Principal Structure (Principal Building) A building or structure that serves as the predominant use of the lot on which it is located.

Public Utility means any person, municipal department, or board fully authorized to furnish and furnishing municipal regulation to the public, electricity, gas, steam, communication services, telegraph services, transportation or water. For the purpose of this chapter, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.

Public Water means a body of water capable of substantial, beneficial public use. For the purposes of this chapter, this shall be construed to mean any lake, pond or flowage of 25 acres in size or more or any river or stream with a total drainage area of two square miles or more, which has the potential to support any type of recreational pursuit or water supply purpose. A body of water created by a private user where there was no shoreland previously for a designated private use, authorized by the commissioner of natural resources, shall be exempt from the provisions of this chapter.

Retaining Wall means a wall or similar structure devise used at a grade change to hold the soil on the up-hillside form slumping, sliding, or falling.

Retirement Housing means a residential complex containing dwellings designed for and principally occupied by senior citizens.

School means an institution for the teaching of children or adults including primary and secondary schools and similar facilities.

Setback means a line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided. Setbacks shall be measured from the rough exterior structural wall to the property line, delineated wetland edge, or floodplain elevation.

Setback, Front Yard are measured from the property line to the closest exterior structural wall of the proposed or existing structure to the front property line. The front yard will abut the street or private easement that the structure is addressed from. If structures in existence have greater or lesser the required front yard setback, the average setbacks of all existing structures from intersection to intersection connected will be averaged to determine the required front yard setback.

Setback, Rear Yard is measured from the property line to the closest structural exterior wall of the proposed or existing structure to the rear property line, delineated wetland edge, or floodplain elevation. A rear yard will not abut the street in which the structure is addressed from.

Setback, Side Yard is measured from the property line, delineated wetland edge, or floodplain elevation to the closest exterior structural wall of the proposed or existing structure. Side yards will run the length of the principal structure.

Sidewalk café means an area located in public right-of-way that includes tables, chairs, benches and appurtenant equipment for exclusive use by patrons of an abutting food establishment, or where the service of food or beverages is offered to persons using such tables, chairs and benches.

Sign, advertising (billboard) means a sign which directs attention to a business, commodity, service activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located.

Sign, backlighting means an illuminated sign where the light source which illuminates the wall behind individual sign letters is hidden from view. The sign letters are opaque and appear as a silhouette against the lighted surface.

Sign, Changing means a sign whose message can be readily changed, either by manual or automatic means.

Sign, Decorative banner means a piece of fabric attached to a pole or building wall as a decorative display of color to enhance the architecture of a building or a site which does not contain a commercial message.

Sign, direct lighting means an illuminated sign where the source of light is visible.

Sign, flashing means any illuminated or nonilluminated sign, which is not a changing sign as defined in this section, which emits an intermittent or flashing light or creates the illusion of intermittent or flashing light by means of animation or other methods.

Sign, ground means a low profile sign which is attached to a pedestal which is located on the ground and the total height of which does not exceed ten feet, if fronting on Highway 5, and eight feet if fronting on any other street or highway.

Sign, illuminated means any sign which has characters, letters, figures, designs or outlines which are either internally or externally illuminated by an artificial light source.

Sign, indirect lighting means an illuminated sign where the sign reflects the light from an external source.

Sign, internal lighting means an illuminated sign having the source of illumination located inside a translucent panel which is not directly visible.

Sign, mural means any mosaic, mural, painting or graphic art, or combination thereof, which is professionally applied to a building that does not contain any brand name, product name, letters of the alphabet spelling or abbreviating the name of any product, company, profession or business, or any logo, trademark, trade name or other commercial message.

Sign, mural means any mosaic, mural, painting or graphic art, or combination thereof, which is professionally applied to a building that does not contain any brand name, product name, letters of the alphabet spelling or abbreviating the name of any product, company, profession or business, or any logo, trademark, trade name or other commercial message.

Sign, political means a temporary sign which advertises or promotes a candidate for public office, a political party or an issue to be considered in a public election.

Sign, portable means a temporary sign which is usually constructed of durable materials and is designed to be readily moved from one location to another.

Sign, private directional means a sign which includes no advertising placed on private property for the purpose of regulating, guiding, warning traffic or persons, or providing other safety information.

Sign, projection means a sign which is mounted on a wall and which projects perpendicular from the wall at approximately 90 degrees and a distance of not more than five feet.

Sign, public means any sign defined as a traffic control sign in the Highway Traffic Regulation Act, any identification sign installed in a public park by a public authority or any other identification, regulatory or warning sign approved by the city council for installation on public land.

Sign, pylon means a sign which is not a ground sign and which is mounted on a pole or post which is partly buried in the ground or attached to a structure other than a building which has a location on or in the ground.

Sign, real estate means a temporary sign which advertises the development, sale, lease or rental of land or buildings.

Sign, rooftop means a sign attached to any roof or any sign attached to a building in any other manner that extends above the wall or parapet wall of the side of the building on which the sign is located.

Sign, rotating means a sign or a portion of a sign which moves in a rotating, oscillating or similar manner other than changing signs.

Sign, temporary means a sign designed to be displayed for a limited period of time that is not permanently fixed to the land or a structure. Temporary signs may be constructed of paper, cloth, canvas, cardboard or any other light and nondurable material. Visual messages on awnings or canopies which are an integral part of the building and which are constructed according to the requirements of the building code shall not be considered temporary signs.

Sign, wall means a sign attached to or erected against an exterior wall surface of a building or structure.

Sign area means the area in square feet of all faces of the sign panel, including the frame. If individual letters are mounted directly on a wall or canopy without a frame, the sign area shall be the area in square feet of the smallest rectangle which encloses the sign message or logo. The sign area of a freestanding multiple face or volumetric sign shall be determined by totaling the area of all faces. The maximum aggregate or total sign area on a lot shall include the sign area of all signs; however, only one side of a double-face or V-type sign structure shall be used in computing total surface area.

Sign Height means the distance measured perpendicularly from the highest point of the sign structure to the natural grade level of the ground directly below that point.

Site and building materials plan means a development plan for a lot or lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, floodplain, wetlands, open spaces, means of ingress/egress, parking, grading, drainage, utilities, landscaping, structures, signs, lighting, screening, building elevations and other information which reasonably may be required in order that an informed decision can be made by the city.

Solar Collector means any object that uses solar radiation for a useful purpose, including but not limited to windows, walls, roofs, and collectors.

Storage buildings means a building or portion of a building used for the storage of personal property.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it, or, if no such floor is above, the space between such floor and the ceiling next above it.

Street means a public right-of-way which affords a principal means of access to abutting property and which has been accepted by the city as a public street.

Structural alterations means any change in the supporting members of a building such as bearing walls, columns, beams or girders, or any substantial changes in the roof and exterior walls.

Structure means anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. When a structure is divided into separate parts by an unpierced wall, each part shall be deemed a separate structure.

Swimming Pool means a structure, above or below grade level, designed to hold water more than 30 inches deep to be used for recreational purposes.

Trailer means a vehicle without motor power used or adaptable for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, which has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term "trailer" shall include the terms "camp car" and "house car." A permanent foundation shall not change its character.

Utility Services means all lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

Use means the purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

Use, accessory means a use incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

Yard means an open space on the same zoning lot with a building or structure, which yard is unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in article III of this chapter.

Variance means permission to depart from this code when, because of special circumstances applicable to the property, strict application of the provisions of this code deprives such property use that is under identical zoning.

Zoning Amendment means a change in the wording, context, or substance of this title or a change in the zoning district boundaries of the Official Zoning Map, to be made a part of this title.

Zoning Lot means a plot of ground, made up of one or more parcels of land, which is occupied or may be occupied by a use, building or buildings, including the open space required by this chapter.

Zoning map means the map or maps incorporated into this chapter as a part hereof, designating the zoning districts.

Section 109-2. Purpose and Scope

This zoning ordinance is adopted for the following purposes:

- a) To implement the policies of the comprehensive plan
- b) Promote the general health, safety, morals, comfort and general welfare of the city
- c) Provide adequate light, air, privacy and safety of transportation and access to property
- d) Encourage the most appropriate use of land throughout the city
- e) Prevent the overcrowding of land and undue concentration of population
- f) Preserve and increase the amenities of the city
- g) Protect and conserve the value of land, buildings and other improvements throughout the city
- h) Provide for the safe and efficient circulation of all modes of transportation to avoid congestion in streets and highways
- i) Protect and conserve the value of land, buildings and other improvements throughout the city
- j) Provide for the administration of this zoning ordinance including the powers and duties of officials and bodies charged with administration, the standards for land use approvals, and the procedures for its enforcements

Section 109-3. Official Map

- a) The location and boundaries of the zoning districts established by this ordinance shall be known and may be referred to as the "Victoria official zoning map". The map and all notations, references and data shown on it are incorporated by reference into this ordinance and shall be as much a part of this ordinance as if it were fully described herein.
- b) All property within the city shall have the zoning designation shown on the official zoning map. If there is any discrepancy or inconsistency between the official zoning map and any other map, ordinance or source which purports to indicate the zoning of property, the official zoning map shall take precedence.
- c) Adoption. The city council may by ordinance, adopted by an affirmative vote of a majority of all members of the council, adopt, amend or repeal official maps in the manner set forth in this section.
- d) Future acquisition lines. The official map shall be prepared in sufficient detail to permit the establishment of the future acquisition lines on the ground. In unplatted areas involving a street, a minimum of a centerline survey shall have been made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shown on the official map shall be attested to by a registered land surveyor.

Article II - Administration and Enforcement

Section 109-25. Penalty for violation of chapter.

Penalty for Violation of Chapter. The owner of a building or premise or lessee of a building or land in violation of any provision of this chapter that has been committed or exists shall be served with an order in writing to remove the violation. If the violation is not brought to compliance with this chapter within ten days after being served, the violator shall be guilty of a misdemeanor. Each day the violation exists, it shall constitute a separate offense.

Section 109-26. Administrative official; duties.

1. Administrative Official; Duties. The administrative official is hereby authorized and directed to enforce all the provisions of this chapter. The administrative official shall perform the following duties:
 - a) Examine all applications related to land use, building or structures, and approve the applications are in compliance with this chapter
 - b) Keep record of all nonconforming uses
 - c) Periodically inspect buildings, structures and uses of land to determine compliance with the terms of this chapter. Notify, in writing, any person responsible for violating a provision of this chapter, indicating the nature of the violation and ordering the action necessary to correct it.
 - d) Order discontinuance of illegal use of land, building or structures; order removal of illegal buildings, structures, additions, alterations; order discontinuance of illegal work being done: or take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
 - e) Maintain permanent and current records of the zoning regulations, including all maps, amendments, conditional uses and variations.
 - f) Maintain a current file of all permits, all certificates and all copies of notices of violation, discontinuance of removal for such time as necessary to ensure a continuous compliance with the provisions of this chapter and, on request, provide information to the public.
 - g) Provide clerical and technical assistance to the board of zoning appeals.

Section 109-27. Building Permits.

1. Permit Required. It is unlawful for any person to engage in any activity for which a permit is required by any provision of this chapter of any other law or ordinance of the City without first obtaining the required permit. No building permit shall be issued unless a building is designed and arranged to conform to the provisions of this chapter and no building or other structure shall be erected, moved, added to, demolished or structurally altered without a permit issued by the administrative official and/or Building Official.

Section 109-28. Certificate of Occupancy.

1. Certificate of Occupancy.
 - a) A certificate of occupancy must be issued by the building official stating the building and use appear to comply with all provisions of this chapter applicable to the building, premise, or use in the district prior to land being used or occupied.
 - b) No use may change in any building or part now or hereafter erected, reconstructed, or structurally altered, without a certificate of occupancy issued by the building official, and no such permit shall be issued to make such change unless it is in conformity with the provisions of this chapter.
 - c) A certificate of occupancy will be issued within ten days after the lawful erection, reconstruction or structural alteration is completed consistent with applicable codes and the requirements of the building permit and all required inspections have been completed.
 - d) The building official may require the services of a qualified testing laboratory or others to determine anticipated compliance with performance standards prior to issuance of a certificate of occupancy. The cost of employing such laboratory shall be paid by the developer of the property.
 - e) Building permits or certificates of occupancy issued on the basis of plans and applications, approved by the administrative official and/or building official authorize only the use, arrangement and construction set forth in approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized will be deemed a violation of this Ordinance.

Section 109-29. Board of adjustments and appeals.

1. Authorization, powers and duties. The Planning Commission shall act as the board of adjustments and appeals and shall have the power and duty of hearing and deciding, subject to review by the Council in each case, appeals or requests taken by any property owner or designated representative upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of adjustments and appeals has the following powers with respect to the zoning ordinance:
 - a) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.
 - b) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's

land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

i. A variance will be granted if it meets the following:

1. The property owner proposes to use the property in a reasonable manner not permitted by this chapter
2. The plight of the landowner is due to circumstances unique to the property and not created by the landowner or previous landowners
3. The variance, if granted, will not alter the essential character of the locality.
4. Economic considerations alone do not constitute practical difficulties.

ii. The board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance

iii. The board of adjustments and appeals will not recommend and the council will not grant a variance unless they find the following facts:

1. Strict enforcement or interpretation would result in a practical difficulty or undue hardship inconsistent with the intent of this chapter
2. There are exceptional or extraordinary circumstances or conditions applicable to the property, use or facilities that do not apply generally to other properties in the same district
3. Granting a variance will not adversely affect the public health, welfare and safety and will not be detrimental or injurious to property or improvements in the neighborhood.
4. Granting of the variance will not allow a use which is otherwise not permitted in the zoning district in question.

2. Procedures of the Board. The Board of Adjustments and Appeals will follow the following procedures:

- a) An application must be made by the property owner or designated representative to the administrative official on forms provided by the city and include all information and data requested. The City Fee Schedule shall set the fee and charges.
- b) Upon the filing of an appeal or application for variance, the administrative official shall set the hearing before the board of adjustments and appeals. The hearing will be set for the next regular meeting of the Planning Commission which allows for sufficient time and notice for publication. Notice shall be published at least ten days prior to the hearing and neighboring property owners within 350 feet of the proposed request will be notified. At the hearing, the board shall hear residents that wish to be heard either in person or by agent. The board will make its decision on the appeal, interpretation or variance and it will be reported to the City Council. The Board of Adjustments and Appeals may recommend conditions to ensure compliance and to protect adjacent property owners.
- c) The City Council will review and may revise any decision of the Board of Adjustments and Appeals. In reviewing decisions, the Council may conduct hearings as they deem necessary and will prescribe notice, if any, of such hearings.

- d) Variances may be denied by the city council, and such denial will constitute a finding and determination that the conditions required for approval do not exist. No application for a variance which has been denied, wholly or in part, may be resubmitted for a period of six months from the date of such order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the board of adjustments and appeals.
- e) If no decision is transmitted by the board of adjustments and appeals within 30 days after referral of the appeal or application for variance to the board, the council may take action without recommendation from the board of adjustments and appeals.
- f) A violation of any condition set forth in granting a variance will be a violation of this chapter and shall automatically terminate the variance. A variance will become void one year after it was granted unless made use of within one year.

Section 109-31. Lapse of Variance by Nonuser

- a) Whenever within one year after the granting in whole or in part of a petition for a variance, and the owner or occupant shall not have substantially completed the erection or alteration of a building or structure as described in such petitions, or does not have a void building permit, the variance will become null and void unless a petition for extension of time in which to complete the proposed construction or alterations have been granted as provided in this section.
- b) A petition to extend time will be submitted in writing 20 days before the expiration of one year from the date the variance was approved. The submittal will include facts showing a good faith attempt to use the variance, and will state the additional time requested to complete the construction or alteration. The petition will be presented to the zoning board of appeals for hearing and decision in the same manner as the original request for variance.
- c) In determining under this section whether the petitioner has made a good faith attempt to use the variance, the board and council may consider factors as the design, size, expense and type of proposed construction or alteration.
- d) It will be within the power of the council, at the time of granting the original request for a variance to grant a two-year period for substantial construction of the building or structure utilizing the same, but such two-year period may not be extended.

Section 109-30. Amendments

1. Applicability. Amendments to this chapter or for changes in the zoning district boundaries and the zoning provisions of this chapter may be initiated by the following:
 - a) A petition of the owner of a parcel of land for which rezoning is requested, or by the owner's agent
 - b) A recommendation of the planning commission
 - c) Action of the city council

An amendment not initiated by the planning commission will be referred to the planning commission for study and report and may not be acted upon by the city council until it has received the recommendation of the planning commission, or until 60 days have elapsed from the receipt by the planning staff.

2. All applications for amendments involving the change of zoning district boundary lines (map changes) which are initiated by the petition of the owners of property or their agents will be filed in the office of the administrative official and will be accompanied by plans and graphics containing the following information:
- a) A generalized location map showing the location of the proposed site in relation to the city
 - b) A scaled plot plan of the proposed site showing all site dimensions with north indicated
 - c) All types of proposed uses
 - d) Location of all buildings and structures on the proposed site
 - e) Location of existing roads on and adjacent to the site
 - f) Location of buildings on adjacent sites
 - g) Location of utilities and easements
 - h) Topographic data, soil types, water table and wetlands
 - i) A drainage plan
 - j) Colorized, architecturally designed renderings, certified survey/site plan, and landscape plan of a proposed project, in conjunction with the rezoning request
 - k) Any additional information that may be requested by the administrative official or the planning commission

Article III - Zoning Districts

Section 109-51. Purpose.

The purpose of this article is to provide for regulations, interpretations and exceptions set forth in this article that apply to all districts, unless otherwise specified.

Section 109-52. Establishment of Districts.

For the purpose of this chapter, the City is hereby divided into zoning districts and potential districts which are hereby designated as follows:

AG	Agriculture
LMR	Lake Minnetonka Residential
S	Shoreland Overlay District
R-1	Low Density Residential District
R-2	Single Family Residential District
R-3	Multi-family Residential
R-4	High Density Residential
CBD	Central Business District
I	Industrial District

Section 109-53. Zoning Map.

The boundary of each district is indicated upon the zoning district map of the city which is entitled "City of Victoria Zoning Map" and is part of this article. If changes are made in district boundaries after the adoption of the ordinance, changes will be made to the zoning map and will be part of this article.

Section 109-54. Annexations.

All territory annexed to the city, which is not shown on the zoning map as part of this article shall automatically be classified within the AG agriculture district and is subject to all regulations, notations, references and conditions applicable to such zone until such time a determination is made as the proper district, classification and amendments made to that effect.

Section 109-55. Zoning of streets, alleys, public ways and railroad rights-of-way.

All streets, alleys, public ways and railroad rights-of-ways, if not otherwise specifically designated, will be deemed to be in the zoning classification as the property with the most restrictive classification immediately abutting the alley, street, public right of ways, or railroad right of way. Where the centerline of a street, alley, public way or railroad right-of way serves as a district boundary, the zoning of such areas, unless otherwise designated, will be deemed to the classification of the abutting property up to the centerline.

Section 109-56. Boundary lines. Wherever any uncertainty exists related to the boundary of any district as shown on the zoning map, the following rules apply:

- a) Where district boundary lines are indicated as approximately following lot lines or section lines, such lines shall be construed to be boundaries.
- b) Where a lot held in one ownership and of record at the effective date of the ordinance from which this article derives is divided by a district boundary line, the entire lot shall be constructed to be within the less restrictive district, however, that this construction shall not apply if it increases the area of the less restrictive portion of the lot by more than 20 percent.

Section 109-57. Lots of Record.

Lots of record prior to the adoption of this Code or prior to annexation to the city but existing with less than the lot area required in the zoning district in which it is located or not having frontage on a public street will be considered a buildable lot provided:

- a) The lot width and lot depth meets at least two-thirds of the requirements as outlined by the district regulations
- b) No variance shall be required to construct a detached single-family dwelling on a nonconforming lot of record provided that it fronts on a public street or approved private street filed with the county provided the structure meets the minimum requirements of this chapter.

Section 109-58. Residential Performance Standards.

The following performance standards will be met for construction in each corresponding district. All manmade architectural, landscape, and paving materials shall reflect the highest quality possible and should be used in a manner suitable to the nature of the material, its role in the design, general durability, expected level of use or abuse, weathering characteristics, and ease and frequency of maintenance. The following materials or equivalent materials are acceptable:

- a) Residential:
 - i. Brick
 - ii. Stone (natural or artificial)
 - iii. Wood, natural or composite, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood or cypress.

- iv. Stucco
 - v. Recyclable grades of vinyl, and finished steel or aluminum
 - vi. Fiber cement board
 - vii. No garage, tent, accessory building, or motor home shall at any time be used as living quarters, temporary or permanently.
 - viii. Basements and cellars may be used as living quarters or rooms as a portion of the principal residential dwelling.
- b) Agriculture:
- i. Buildings where wood poles or timbers are the primary support for the roof system and form the foundation structure, provided that wood foundations are permissible (pole buildings) only in the agriculture district.
- c) Prohibited materials in all districts include:
- i. Face materials which rapidly deteriorate or become unsightly such as galvanized metal, unfinished structural clay tile and metal panels not factory finished with a permanent surface.
 - ii. Building comprised exclusively of metal
 - iii. Sheet metal, plastic or fiberglass siding, unless such siding is a component of a factory fabricated and finished panel.

Section 109-59. Fences and Retaining Walls.

Fences and retaining walls will adhere to the following provisions:

- a) Construction, maintenance and design requirements are as follows:
- i. Fencing shall be constructed and maintained to not endanger life or property. Any fence, through lack of repair, type of construction, or which otherwise imperils health, life, or property of a neighborhood shall be deemed a nuisance.
 - ii. The side of the fence considered being the face shall face an abutting property or street. The face shall be defined as the finished side of the fence rather than the side with structural supports.
 - iii. If fencing is built away from a property line, the property on both sides of the fence must be maintained to not create a nuisance.
- b) Residential Fence and Retaining Wall Location requirements:
- i. All privately owned fences and retaining walls shall be located entirely upon private property of the person constructing the fence or retaining wall. A fence may be allowed on the property line with written permission of all the adjacent property owners.
 - 1. Retaining walls are not permitted within any easement
 - ii. A rear yard boundary or privacy fence is permitted only within a rear yard. A seven-foot boundary fence is permitted in the side yard but will not extend past the front corner or face of the principal structure.
 - iii. For large lots containing structures set back 100 feet or more from a street right-of-way, a rear yard boundary fence shall be permitted within the side yards to the front of the structure, or in the case of two adjacent structures, to a line connecting the front of such structures.

- iv. A decorative fence is the only type of fence allowed within a front yard and side yards to the face of the principal structure.
 - v. A decorative fence may have a maximum opacity of 50%
 - vi. When driveways, access, or walkway easement are located on private property, fences shall not be constructed in the easement. No fence will be constructed which obstructs the flow of water upon a drainage or ponding easement.
 - vii. On any corner lot, no fence or retaining wall will be erected 15 feet from the intersection at the corner of the lot if traffic visibility were to be impaired.
- c) Commercial and Industrial Fence Requirements
- i. All fences shall be located entirely upon private property of the person constructing the fence. A fence may be allowed on the property line with written permission of all the adjacent property owners.
 - ii. Screening of outdoor areas require a fence at least six but not more than eight feet in height. Fences exceeding seven feet require a building permit and engineer's design.
 - iii. All fences required for screening open storage areas will have an opacity of at least 90 percent, but to not exceed 95 percent.
 - iv. Screening fence materials will be compatible (similar materials, colors, and scale) with the principal building and shall be compatible with the natural surroundings
 - v. Fencing may be required at locations where commercial or industrial uses are adjacent to or across the street from property zoned or developed for residential or public use.
 - vi. The fence will have an opacity of at least 75 percent but not to exceed 95 percent.
 - vii. A louvered fence shall be considered adequate if it blocks vision from a 90-degree angle to the fence.
 - viii. Plant materials of a type approved by the city and adjacent neighbor may also be required in addition to, or in lieu of, fencing.
 - ix. The screening fence is required to have a 15 foot setback from any street of driveway opening onto a street
 - x. The fence shall be placed along the property lines or, in case of screening along a street, five feet off the property line with landscaping (trees, shrubs, grass and other plant material) between the screening fence and property line.
- d) Permit Requirements:
- i. All fences and retaining walls require a permit.
 - ii. A complete permit application will include the following for review by the planning department:
 - 1. Signed and completed application form.
 - 2. Two copies of a certificate of survey, drawn to scale including the structure location and proposed project.
 - 3. Two copies of plans showing proposed designs and materials
 - iii. If the fence exceeds seven feet or the retaining wall exceeds four feet, a building permit is required and engineered plans may be required.

- e) Design Requirements:
 - i. The use of barbed wire or any electrical current is prohibited in residential districts
 - ii. Use of chicken wire as a fence face is prohibited.
 - iii. A chainlink fence is required to have a minimum gauge of 11
 - 1. A chain link fence is not permitted within a front yard
 - iv. No plastic or other slats may be used in a chainlink fence

Section 109-60. Accessory Structures

- a) No accessory building or structure will be constructed on any lot prior to the time of construction of the principal building to which it is accessory. Demolition of a principal structure which leaves an accessory structure as the only structure on the property is not permitted.
- b) An accessory structure in the R-1 and R-2 districts can be a maximum of 900 square feet and will not consume greater than ten percent of the buildable rear yard area. A conditional use permit is required for an accessory structure exceeding 900 square feet. The maximum size of a detached accessory structure with approval of a conditional use permit shall be 1.5 times the maximum allowable size. Pole buildings are not permitted in residential districts.
- c) An accessory structure is permitted within the rear yard of a property. A detached garage may be located in a side yard if it meets the required setbacks for an attached garage.
- d) No accessory building will be located within ten feet of a principal structure or other accessory building or located within any easement.
- e) Temporary buildings incidental to construction work are required to be located entirely on private property and must be removed upon the completion or abandonment of the construction work.
- f) Temporary accessory storage structures not affixed to a foundation or not permanent in nature may be used for three months of a calendar year.
- g) No lot shall contain an attached garage together with a detached garage and storage shed. A lot may contain a maximum of two of the three.
- h) The state building code requires a building permit for accessory buildings in excess of 200 square feet floor area or for buildings that are permanently affixed to the ground by a concrete or bituminous slab or foundation.
 - i. Two sets of drawings showing the construction details must be submitted with the application.
 - ii. Two copies of a survey are required as part of the application which must show the location of the accessory structure drawn to scale.
- i) An accessory structure less than 200 square feet will require a zoning permit
 - i. Two copies of a survey are required as part of the zoning permit application which must show the location of the accessory structure drawn to scale.
- j) Accessory structures will be constructed of the same as or similar quality as that of the principal building. Accessory buildings shall be compatible with the principal building in materials, design, and character.

- k) No additional or separate driveway entrances are permitted for access to an accessory structure. An accessory structure may be accessed from an extension of the existing driveway but an additional curb cut to access an accessory structure is not permitted.
- l) A driveway extension servicing an accessory garage will be no greater than eight feet in width.
- m) A driveway extension requires landscaping and/or screening along the portion of the driveway, which abuts any adjacent properties.

Section 109-61. Swimming Pools

- a) Swimming pools are considered accessory structures and will meet the accessory structure setback requirements of each district.
- b) The surface of the pool must be 10 feet from any portion of the principal structure including deck stairs.
- c) Private swimming pools will comply with the following regulations:
 - i. All underground pools and aboveground pools over 5,000 gallons and/or more than two feet deep at any point and over 150 square feet of surface area shall be required to be enclosed by a five-foot safety fence. All gaps in the fence must be 4 inches or less. A fence must be constructed of corrosion-resistant material. Fence posts must be decay or corrosion resistant and must be set in concrete bases or other suitable material. The opening between the bottom of the fence and the ground or other surface must be four inches or less.
 - ii. Gates must be equipped with self-closing and self-latching devices capable of being locked, at least 48 inches above grade and inaccessible to small children
 - iii. A pool pump, filter or other apparatus used to service a swimming pool must meet required side yard setbacks of a principal structure or 10 feet minimum, whichever is greater.
 - iv. A private pool should be drained at grade of the property where it is constructed unless reviewed by the City. Prior to draining the pool, the property owner may not add chemical treatment to the pool for seven days. The person draining the pool must regulate the volume and rate of discharge to prevent damage to public or private property.
 - v. Private swimming pools located on the site of multiple-family dwellings which are intended for, and used solely by the occupants of multiple-family dwellings require a 25-foot setback from any lot line. Swimming pools must be located on the premises in compliance with the zoning ordinance requirements. The pool and related facilities must be built in accordance with plans approved by the city. No more than two feet of water may be placed in the pool until the safety fence is completed, inspected, and approved. The pool may not be placed in operation until city inspections show compliance with the requirements of this section.

Section 109-62. Decks

- a. A deck shall be considered part of the principle structure if attached to the home, constructed with frost footings and/or greater than 30 inches above grade. A deck is subject to setbacks of the principal structure. In zoned residential districts lots of record established prior to July 1st, 1997, uncovered decks may encroach into rear yard setback areas up to 30 percent of the required minimum setback area.
- b.

Sections 109-63 – Section 109-91 Reserved.

Section 2. Section 109 of the Victoria City Code, the City's official zoning ordinance, is hereby amended by repealing and reserving in their entirety, Article I, Article II and Article III.


Section 3. This ordinance shall be effective immediately upon its passage and publication.

Adopted this 24th day of July, 2017 by the Victoria City Council.



Thomas C. Funk, Mayor

ATTEST:



Laurie Hokkanen, City Manager