

Key

Red underlined text provides either the section reference or a use name change in the draft

Text highlighted in turquoise deals with grandfathering language. All grandfathering provisions are located in Sec. 8.7.1 of draft

Text with ~~red strikethrough~~ has not been included in the draft Zoning Code

3/18/2013

Division 59-A-5. Compliance Required.

Sec. 59-A-5.1. Generally.

A building or other structure can only be erected, moved, structurally altered, added to, enlarged, or used, and land can only be used in accordance with the uses and development standards prescribed by the zone in which the building or land is located. This section does not, however, prohibit the use of any land for exclusively agricultural purposes. Sec 4.1.2.A. Compliance Required

Sec. 59-A-5.2. Buildings to be located on lots.

Every building hereafter erected shall be located on a lot, as herein defined; and, except as provided in this chapter, there shall be not more than one single-family dwelling on one lot. Sec. 4.1.2.B. Compliance Required

Sec. 59-A-5.3. Yards and open spaces generally.

~~No building shall be erected, nor shall any existing building be altered, enlarged, moved or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner not in conformity with the yard, lot, area and building location regulations hereinafter designated for the zone in which such building or open space is located, except as otherwise specifically provided.~~

~~No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as a yard or open space for any other building; and no yard or other open space of a building on one lot shall be considered as a yard or open space for a building on any other lot.~~

59-A-5.31. Open to sky.

~~All yards and courts required by this chapter shall be open and unobstructed to the sky, except as provided herein.~~

59-A-5.32. Show windows.

~~In any commercial or industrial zone, no show window or other projection, except signs, subject to the provisions of article 59 F of this chapter, shall extend beyond the building line, except upon the issuance by the director of a revocable license. The owner shall agree that such show window or projection will be removed at the owner's expense, immediately upon notice to the owner of such director's revocation of the license.~~

59-A-5.33. Established building line. [Sec 4.4.2.C Established Building Line](#)

(a) The established building line, as defined in Section [59-A-2.1](#), applies only to new buildings in the R-60, R-90, R-150, and R-200 zones. The established building line does not apply to an alteration or addition to an existing building.

(b) The two or more one-family detached residential buildings considered in determining the established building line must all be:

(1) within 300 feet of the side property line of the proposed construction site measured along the street frontage;

(2) along the same side of the street;

(3) between intersecting streets or to the point where public thoroughfare is denied;

(4) in existence or approved by a building permit when the building permit application on the subject property is filed;

(5) legally constructed; and

(6) not on a through lot if the building on the through lot fronts on a street other than the street fronting the subject property.

(c) The established building line is the minimum setback for the zone, unless there are at least two buildings as described in subsection (b) and more than 50 percent of the buildings described in subsection (b) are set back greater than the minimum, in which case the average setback of all the buildings described in subsection (b), excluding those buildings:

(1) in the R-200 zone that are or were ever served by well or septic;

(2) on the subject property;

(3) in a different zone than the subject property;

(4) on a through lot that fronts on a street different than the subject property;

(5) located on any pipestem, wedge-shaped, or flag-shaped lot; or

(6) approved by permit for demolition, except if a building permit was also approved with the same setback,

is the established building line, unless the applicant chooses to calculate the setback as the average setback of the two adjoining lots or the applicant chooses to use the front setback of the existing one-family building that was established before demolition, excluding any approved variance, if the existing building meets the minimum setback of the zone. All calculations must be based on a survey that is signed and sealed by a licensed engineer or surveyor. Any building excluded from the established building line restriction must comply with the minimum setback requirement of the zone.

(d) Corner lots have two front yards and are subject to established building line standards on both streets. At the option of the applicant, a corner lot may use front setbacks of the adjoining buildings on both sides of the corner lot.

Sec. 59-A-5.4. Height of buildings and structures.

No building shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the zone in which such building is located, except as otherwise specifically provided in [article 59-B. Sec 4.1.4.D.3. Height Encroachments](#)

59-A-5.41. Additional stories on sloping lot.

~~On any sloping lot, stories in addition to the number permitted in the zone in which the lot is located must be permitted on the downhill side of any building erected on the lot, but the building height limit must not otherwise be increased above that specified for the zone. This section must be implemented by an executive regulation adopted under method 2 of Section 2A-15. The term stories has not been carried over into draft~~

59-A-5.42. Height of public buildings.

In any zone wherein public and quasi-public buildings are permitted, such buildings may be erected to a height not over 120 feet; but the minimum front, rear and side yards shall be increased one foot for each one foot by which such building exceeds the height limit herein established for the zone in which such building is erected. [Sec. 4.1.4.D.3.f. Height Encroachments](#)

59-A-5.43. Height in airport approach areas.

Building height limits, as provided in this chapter, shall not apply in airport approach areas. In such airport approach areas, the height limit of all buildings and structures, including chimneys, superstructures, flag poles, spires, radio towers and any other projections into the air, shall be limited to provide a clear glide path from the end of the useable landing strip, such glide path being a plane surface laid out in accordance with the operating characteristics of the aircraft for which the airport is designed, and in accordance with the criteria set forth by the special exception under which the airport has been established. The first 500 feet of such glide path shall be wholly within the airport. [Sec. 4.1.4.D.4. Height in Airport Approach Area](#)

59-A-5.44. Existing buildings and permits filed.

Any one-family detached residential building existing in the R-60 or R-90 zone constructed under a building permit issued before October 12, 2005, or under a building permit application filed before October 12, 2005, that does not conform to the building height limit of the applicable zone or the method of calculating building height in effect after October 12, 2005, is a conforming building. However, any alteration, repair, or reconstruction that would increase the height of the building as it existed on October 12, 2005, must conform to the standards in effect after October 12, 2005.

Sec. 59-A-5.5. Off-street parking.

Automobile off-street parking shall be provided in connection with any permitted use or special exception in accordance with the provisions of [article 59-E](#) of this chapter. [Sec. 7.2.2. Parking, Queuing, and Loading Applicability](#)

Sec. 59-A-5.6. Master plan of highways.

In areas where a master plan of highways has been duly adopted by the Commission showing a proposed new highway or street or a proposed relocation or widening of an existing highway or street, or a proposed rapid transit route or facility, no building or part of a building shall be permitted to be erected within the planned acquisition line of such proposed highway or street, or rapid transit line or facility.

The owner of the property so affected, however, shall have the right to appeal the refusal of a building permit to the board and the board may grant a permit to build, subject to such conditions and restrictions as it deems necessary, if it should find, upon the evidence and arguments to it upon such appeal, (1) that the entire property of the appellant of which the area affected by the master plan forms a part cannot yield a reasonable return to the owner unless such appeal is granted, and (2) that balancing the interest of the general public in preserving the integrity of the plan and the interest of the owner of the property in the use and benefits of his property, the granting of such permit is required by consideration of reasonable justice and equity. Before taking any action, the board shall hold a public hearing at which the parties in interest shall have an opportunity to be heard. Sec. 2.4.4.D. Zoning Within Planned Rights of Way

Sec. 59-A-5.7. Uses constituting public nuisances.

~~Any use which is found by the board to be a public nuisance, by reason of the emission of dust, fumes, gas, smoke, odor, noise, vibration or other disturbance, is expressly prohibited. No such finding shall be made by the board except after a hearing upon reasonable notice, and any person, the commission or the district council may file a petition with the board for such hearing.~~