

ORDINANCE NO. O2018-011

**AN ORDINANCE OF THE CITY OF SHAKOPEE, MINNESOTA,
AMENDING CITY CODE SECTION 151.035 (OLD SHAKOPEE RESIDENTIAL ZONE, R1C)**

WHEREAS, the City of Shakopee has initiated a zoning text amendment request to revise the language of the R1C, Old Shakopee Residential Zone; and

WHEREAS, notices were duly sent and posted, and a public hearing was held before the Planning Commission on May 3, 2018, at which time all persons present were given an opportunity to be heard; and

WHEREAS, the Planning Commission has recommended to the City Council that the City Council approve the amendment to City Code; and

WHEREAS, the City Council heard the matter at its meeting on June 5, 2018; and

NOW, THEREFORE BE IT ORDAINED, that the City Council of the City of Shakopee hereby adopts the following findings of facts relative to the above-named request:

Criteria #1 ***The original zoning ordinance is in error.***

Finding #1 *The original zoning ordinance allows this type of traditional development and lot size in a specific area of the community. The proposed text amendment revises the name of the zoning district and allows this district's regulations to be used elsewhere in the City.*

Criteria #2 **Significant changes in community goals and policies have taken place.**

Finding #2 *Significant changes in community goals and have taken place. There is a desire for more compact lots, and reduced setbacks in the Twin Cities Real Estate market. This proposed amendment allows the use of a current zoning district in other areas of the City outside of the area surrounding downtown Shakopee.*

Criteria #3 **Significant changes in development patterns have occurred.**

Finding #3 *Significant changes in development patterns have occurred. Developers and homebuyers are interested in smaller lots. The City of Shakopee intends to keep pace with current market conditions and desires of residents, and also allow for housing that is more affordable than what is currently available.*

Criteria #4 **The Comprehensive Plan requires a different provision.**

Finding #4 *The Comprehensive plan does not require another provision, as this is a revision to the language of an existing zoning chapter.*

BE IT FURTHER ORDAINED, that the Zoning Ordinance is hereby amended as state below:
Language to be removed is struck through, added language is underlined.

151.035 ~~Old Shakopee Residential Zone~~ Traditional Neighborhood District (R-1C).

(A) *Purpose*. The purpose of the ~~Old Shakopee Residential Zone to provide an area for the continuation of existing residential development and development of existing lots in the older residential areas where public sanitary sewer and water are available. The combination of small lots is encouraged.~~ Traditional Neighborhood Zone is to provide an area for the continuation of existing residential developments and allow for new residential developments that allow flexibility in building and neighborhood type design. The intent of the R1C zone is to create a walkable urban environment with shorter blocks and a grid pattern of street design.

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

- (1) Single-family detached dwellings;
- (2) Single-family attached dwellings, up to a maximum of 2 dwellings;
- (3) Public recreation;
- (4) Utility services;
- (5) 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; and
 - (e) Shall comply with all applicable design standards.
- (6) Public buildings;
- (7) Day care facilities serving 12 or fewer persons;
- (8) Adult day care centers as permitted uses, subject to the following conditions. The adult day care center shall:
 - (a) Serve 12 or fewer 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 designated 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 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) Comply with all other state licensing requirements.

- (9) Group family day care facilities serving 14 or fewer children;
 - (10) Residential facilities serving 6 or fewer persons;
 - (11) Single-family detached residences previously constructed as accessory uses to a church, where the resulting lot meets the design standards found in division (E) below;
 - (12) Single- and mixed-use developments which comply with § [151.048](#) and have received approval from the City Council;
 - (13) 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 in 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 to 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 the relocating the structure shall be paid for by the applicant.
- (C) *Conditional uses.* Within the ~~Old Shakopee Residential Zone~~ Traditional Neighborhood Zone, no structure or land shall be used for the following uses except by conditional use permit:
- (1) Over-sized accessory structures as determined by § [151.007\(B\)\(2\)](#);
 - (2) Churches and other places of worship;
 - (3) Cemeteries;
 - (4) Hospitals and clinics;
 - (5) Public or private schools having a course of instruction approved by the State Board of Education for students enrolled in K through grade 12, or any portion thereof;
 - (6) Bed and breakfast inns;
 - (7) Funeral homes;
 - (8) Day care facilities serving 13 through 16 persons;
 - (9) Adult day care centers as conditional uses, 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.

(10) Residential facilities servicing from 7 through 16 persons;

(11) Structures over 2-1/2 stories or 35 feet in height;

(12) Developments containing more than one principal structure per lot; or

(13) *SENIOR HOUSING FACILITIES*, which are defined as housing facilities with or without assisted living services, that are intended to serve persons greater than 55 years of age, not including nursing homes, subject to the following conditions:

(a) Minimum lot size of 0.75 acres;

(b) Maximum density of 45 units/acre;

(c) Maximum height is equal to the maximum height set forth by the design standards of the R-1C, ~~Old Shakopee Residential Zone~~ Traditional Neighborhood Zone;

(d) Minimum structure setbacks are equivalent to R-1C setback regulations, except that the minimum side yard setback must be at least one-half of the building height;

(e) Maximum impervious surface percentage of 70%; and

(f) Building design and materials must meet minimum requirements set forth in §§ [151.105](#) through [151.125](#).

(14) Utility structures which do not meet the standard conditions under the permitted uses; or

(15) 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.

(D) *Permitted accessory uses*. Within the ~~Old Shakopee Residential Zone~~ Traditional Neighborhood Zone, the following uses shall be permitted accessory uses:

(1) Garages;

(2) Fences;

(3) Recreation equipment;

(4) Gardening and other horticultural uses not involving retail sales;

(5) 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 playfields 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.

(6) Swimming pools;

(7) Tennis courts;

(8) Home occupations contingent upon approval of a home occupation permit;

(9) Solar equipment; or

(10) 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.

(11) Other accessory uses, as determined by the Zoning Administrator.

(E) *Design standards.* Within the ~~Old Shakopee Residential Zone~~ Traditional Neighborhood Zone, no land shall be used, and no structure shall be constructed or used, except in conformance with the following requirements:

(1) *Maximum density:* 7-1/2 dwellings per acre. Streets shall be excluded in calculating acreage;

(2) *Maximum impervious surface percentage:* 50%;

(3) *Lot specifications:*

(a) *Minimum lot width (single-family detached):* 50 feet;

(b) *Two-family dwelling:* 70 feet;

(c) *Minimum lot depth:* 100 feet;

(d) *Minimum front yard setback:*

1. Thirty feet, except that the minimum setback shall be equal to the average setback of other principal structures on the block when the applicant proves that there are more than 2 other existing principal structures on the block, and those structures have an average setback of less than 30 feet; or

2. If there are fewer than 3 other existing principal structures on the block, the setback is 30 feet.

(e) *Minimum street side yard setback:* 10 feet, except that the minimum setback shall be equal to the average street side yard setback of other principal structures on the block when the applicant proves that the other existing principal structures have an average setback of less than 10 feet;

(f) *Minimum interior side yard setback:* 5 feet, or one side at 3 feet and the other side at 7 feet;

(g) *Minimum rear yard setback:* 30 feet; and

(h) *Minimum rear yard setback for accessory structures:* 5 feet.

(4) *Maximum height.* No structure shall exceed 35 feet in height without a conditional use permit.

(F) *Additional requirements.*

(1) All dwellings shall have a depth of at least 20 feet for at least 50% of their width. All dwellings shall have a width of at least 20 feet for at least 50% of their depth.

(2) All dwellings shall have a permanent foundation in conformance with the State Building Code.

(2013 Code, § 11.30) (Ord. 31, passed 10-25-1979; Ord. 60, passed 5-14-1981; Ord. 159, passed 2-28-1985; Ord. 264, passed 5-26-1989; Ord. 377, passed 7-7-1994; Ord. 435, passed 11-30-1995; Ord. 470, passed 1-1-1997; Ord. 479, passed 3-13-1997; Ord. 482, passed 5-15-1997; Ord. 496, passed 8-21-1997; Ord. 501, passed 9-18-1997; Ord. 528, passed 10-29-1998; Ord. 563, passed 11-25-1999; Ord. 741, passed 12-1-2005; Ord. 793, passed 3-27-2008; Ord. 899, passed 1-20-2015; Ord. 903, passed 3-17-2015)

Passed in regular session of the City Council of the City of Shakopee, Minnesota held on the _____ day of _____, 2018.

Mayor of the City of Shakopee

Attest:

Lori Hensen, City Clerk

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PREPARED BY:
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