

CHAPTER 1016

GENERAL PERFORMANCE STANDARDS

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1016-1: PURPOSE: The purpose of this Chapter is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.

1016-2: DWELLING UNIT RESTRICTION:

- A. Except as may be expressly allowed by this Ordinance, no garage, tent, accessory building or motor home shall at any time be used as living quarters, temporarily or permanently. Tents, playhouses or similar structures may be used for play or recreational purposes.
- B. Basements and cellars may be used as living quarters or rooms as a portion of the principal residential dwelling, only in conformance with the State Building Code.

1016-3: PLATTED AND UNPLATTED PROPERTY:

- A. Any person desiring to improve property shall submit to the Building Official a survey of said premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property,

encroachments, and any other information which may be necessary to ensure conformance to City ordinances.

- B. All structures shall be placed so that they will not obstruct future public streets which may be constructed in conformity with existing streets and according to the system and standards employed by the City.
- C. Except in the case of a PUD District established by Chapter 1090 of this Ordinance or as specifically allowed and stated in a respective zoning district, not more than one (1) principal building shall be located on a lot. The words "principal building" shall be given their common, ordinary meaning as defined in Section 1002-2 of this Ordinance. In case of doubt or on any questions or interpretation the decision of the Zoning Administrator shall be final, subject to the right to appeal to the Board of Adjustment and Appeals.
- D. On a through lot, both street lines shall be front lot lines for applying the yard setback regulations of this Ordinance except in the case of a buffer yard fence or accessory building. In addition, no home on a through lot or corner lot in any residential zone shall be allowed direct access to any major collector or arterial street designated as such by the City's Transportation Plan, except as may be permitted by the City Engineer.
- E. In the case of properties which abut street easements, applicable setbacks shall be measured from the easement line and shall be related to roadway classification as identified in the Montrose Transportation Plan and Subdivision Ordinance.
- F. Outlots are deemed unbuildable and no building permit shall be issued for such properties, except in the case of public park facilities and essential services.
- G. Except as may be allowed by conditional use permit and property subdivision, each lot shall have frontage and access directly onto an abutting, improved and City accepted public street.

1016-4: EROSION AND DRAINAGE:

- A. **Minnesota Pollution Control Agency (MPCA) Requirements:** Every applicant for a building permit, subdivision approval, or a grading permit to allow land disturbing activities shall adhere to erosion control measure standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas", as may be amended, or as approved by the City Engineer and applicable City's stormwater management requirements. All applications shall comply with Minnesota Pollution Control Agency's National Pollutant Discharge Elimination System (NPDES) Phase II requirements.

- B. **Prohibited Development:** No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of sediment on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area, or other public facilities subject to the review and approval of the City Engineer.
- C. **Stormwater Management:** All residential, commercial, industrial, and institutional developments shall satisfy the provisions of the Subdivision Ordinance in regard to stormwater management.
- D. **City Engineer Approval:** In the case of all single-family lots, multiple-family lots, business, industrial and institutional developments, the drainage and erosion control plans shall be subject to the City Engineer's written approval. No modification in grade and drainage flow through fill, cuts, erection of retaining walls or other such actions shall be permitted until such plans have been reviewed and received written approval from the City Engineer.
- E. **Approval Of Erosion Control Measures:** Proposed erosion control measures may be approved by the City Engineer as part of grading plan review. Erosion control may be specified by the City Engineer as part of a site survey for individual building permits. Erosion control measures may also be specified by the City Engineer as needed and deemed appropriate during the construction and post-construction periods separate from the above.
- F. **Storm Sewer Inlets:** All storm sewer inlets which are functioning during construction shall be protected so that sediment laden water does not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
- G. **Stormwater Channels:** All on-site stormwater conveyance channels shall be designed and constructed to withstand the design volume of stormwater with appropriate stabilization to prevent scour and erosion. Erosion controls shall be provided at the outlets of all storm sewer pipes.
- H. **Sediment Control Practices:** All temporary and permanent erosion and sediment control practices shall be maintained and repaired whenever necessary to assure the continued performance of their intended function.
- I. **Tracking:** Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.
- J. **Seeding:** All disturbed ground left inactive for seven (7) or more days shall be stabilized by seeding or sodding or by mulching or covering or other equivalent control measure.

- K. **Sites Over One Acre:** For sites with more than one (1) acre disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent (1%) of the area draining to the basin and at least three feet (3') of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet (3'). The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
- L. **Sites Under One Acre:** For sites with less than one (1) acre disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all side slope and down slope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control measures must include a maintenance and inspection schedule.
- M. **Removal:** All temporary erosion control devices including silt fence, gravel, hay bales or other measures shall be removed from the construction site and properly disposed of or recycled. This removal and disposal shall occur within thirty (30) days of the establishment of permanent vegetative cover on the disturbed area.
- N. **Site Dewatering:** Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels of a wetland. All dewatering shall be in accordance with all applicable County, State, and Federal rules and regulations.
- O. **Waste And Material Disposal:** All waste and unused building materials (including garbage, debris, cleaning wastes, waste water, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.
- P. **Foundation, Garage Floor:** Unless approved by the City Engineer, the top of the foundation and garage floor of all structures shall be at least eighteen inches (18") above the grade of the crown of the street. Elevations shall be in accordance with the approved grading plan for the development.
- Q. **Stop Work Order:** The City's Building Official or City Engineer may issue stop work orders for any violation of this Ordinance.

1016-5: WETLANDS:

- A. **Delineation Report:** Every applicant for a grading permit to allow wetland disturbing activities shall submit a wetland delineation report to the City Engineer. No grading permit to allow wetland disturbing activities shall be issued until approval of the wetland replacement plan application or a certificate of exemption has been obtained in strict conformance with the provisions of this Ordinance and the Minnesota Wetland Conservation Act. This Ordinance applies to all land, public or private, located within the City.
- B. **Impacts:** Utilization and development impacts to wetlands shall be consistent with the stormwater management policies of the City.
- C. **Impacts To Wetland:**
1. Concentrated runoff discharge into wetlands shall be consistent with the stormwater management policies of the City of Montrose. All stormwater shall be treated for water quality improvements prior to discharge to a wetland.
 2. A protective buffer strip of natural vegetation of thirty feet (30') in width from the delineated edge at the time of development shall surround all wetlands within areas developed or redeveloped after the effective date of this Ordinance. Grading or construction within this buffer is prohibited.
 3. A building setback of thirty feet (30') shall exist from the delineated edge of all wetlands at the time of development within areas developed or redeveloped after the effective date of this Ordinance.
 4. Wetlands shall not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value in accordance with the Minnesota Wetland Conservation Act. Replacement shall be guided by the following principles in descending order of priority:
 - a. Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland.
 - b. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation.
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment.
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity.

- e. Compensating for the impact by replacing or providing approved substitute wetland resources or environments.

1016-6: PUBLIC RIGHTS-OF-WAY:

- A. **Coverage:** The erection and/or placement of any structure in the public right-of-way or on City property by any person, or group other than the City of Montrose, Wright County, the State of Minnesota, Federal Government or franchised utility shall require the processing of a conditional use permit in accordance with Chapter 1005 of this Ordinance.
- B. **Exceptions:** Exceptions to this provision include newsstands, USPS mail boxes, essential services, signs allowed under Chapter 1024 of this Ordinance, radio receivers and transmitters as an accessory use to essential services, and personal wireless communication antennas located on existing lattice electrical transmission towers, provided that the use and equipment comply with all applicable requirements of this Ordinance.
- C. **Liability:** As a condition of approval for the erection or placement of a structure in the public right-of-way, or on City property by any party other than those specified above, the applicant shall be required to demonstrate a significant need for such structure placement and that it will not interfere or conflict with the public use and/or purpose of the right-of-way. Additionally, the applicant shall sign a contract with the City that holds harmless the City for any potential liability and shall demonstrate to the Zoning Administrator proof of adequate liability insurance.
- D. **Compliance Required:** The erection and/or placement of any structure in the public right-of-way on City property shall be done in conformance with the provisions of this Ordinance.

1016-7: TRAFFIC SIGHT VISIBILITY TRIANGLE: Except for a governmental agency for the purpose of screening, no wall, fence, structure, tree, shrub, vegetation or other obstruction shall be placed on or extend into a yard or right-of-way area so as to pose a danger to traffic by obscuring the view of approaching vehicular traffic or pedestrians from any street or driveway. Visibility from any street or driveway shall be unobstructed above a height of three feet (3'), measured from where both street or driveway center lines intersect within the triangle described as beginning at the intersection of the projected curb line of two (2) intersecting streets or drives, thence forty five feet (45') along one curb line, thence diagonally to a point forty five feet (45') from the point of beginning along the other curb line. The exception to this requirement shall be where there is a tree, planting or landscape arrangement within such area that will not create a total obstruction wider than three feet (3'). These requirements shall not apply to conditions of this Ordinance that legally exist prior to the effective date of this

Ordinance, unless the City Council determines that such conditions constitute a safety hazard.

1016-8: EXTERIOR LIGHTING:

- A. **Purpose:** It is the purpose of this section to encourage the use of lighting systems that will reduce light pollution and promote energy conservation while increasing night-time safety, utility, security and productivity.
- B. **Exemptions:** The provisions of this section shall not apply to the following:
1. Temporary outdoor lighting used during customary holiday seasons:
 2. Temporary outdoor lighting used for civic celebrations and promotions.
 3. Lighting required by a government agency for the safe operation of airplanes, or security lighting required on government buildings or structures.
 4. Emergency lighting by police, fire, and rescue authorities.
 5. Architectural/historical light fixtures and street lights that feature globes that are not shielded. In no case shall the light affect adjacent property in excess of the maximum intensity defined in Section 1016-8.C.1 of this Ordinance.
 6. All outdoor lighting fixtures existing and legally installed prior to the effective date of this Ordinance are exempt from regulations of this Section but shall comply with the following standards:
 - a. Glare. Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from flood lights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the center line of said street. Any light or combination of lights which cast light on residential property shall not exceed four-tenths (0.4) foot candles (meter reading) as measured from said property.

- b. Replacement. Whenever a light fixture that was existing on the effective date of this Ordinance is replaced by a new outdoor light fixture, the provisions of this Section shall be complied with.

C. Performance Standards.

1. No light source or combination thereof which cast light on a public street shall exceed one (1) foot candle meter reading as measured from the center line of said street nor shall any light source or combination thereof which cast light on adjacent property exceed four-tenths (0.4) foot candles as measured at the property line.
2. The foot candle level of a light source shall be taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the light intensity.
3. Residential District Standards. In all residential districts, any lighting used to illuminate an off-street parking area, structure, or area shall be arranged as to deflect light away from any adjoining residential property or from any public right-of-way in accordance with the following provisions:
 - a. The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity defined in Section 1016-8.C.1 of this Ordinance.
 - b. Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way, unless part of a permanent fixture.
4. Commercial, Industrial, and Institutional District Standards. Any lighting used to illuminate an off-street parking area, structure, or area shall be arranged so as to deflect light away from any adjoining property or from any public right-of-way in accordance with the following provisions:
 - a. Shielding. The light fixture shall contain a cutoff which directs the light at an angle of ninety (90) degrees or less. Exposure of the light source shall not be permitted in view of adjacent property or public right-of-way.
 - b. Lighting of entire facades or architectural features of a building shall be approved by the City Council. Building facades or architectural features may not be internally illuminated and shall only utilize illuminating devices mounted on top and facing downward onto the structure. In no case shall the light affect adjacent property in

excess of the maximum intensity defined in Section 1016-8.C.1 of this Ordinance.

- c. Intensity. Light sources shall not be permitted so as to light adjacent property in excess of the maximum intensity defined in Section 1016-8.C.1 of this Ordinance.
5. Height. The maximum height above the ground grade permitted for poles, fixtures, and light sources mounted on a pole is twenty-five (25) feet. A light source mounted on a building shall not exceed the height of the building. Exceptions to the height limits for light sources may be approved by conditional use permit provided that all other requirements of this Section are complied with.
 6. Location.
 - a. All non-public outdoor light fixtures shall be set back a minimum of ten (10) feet from a street right-of-way and five (5) feet from an interior side or rear lot line.
 - b. No light sources shall be located on the roof unless said light enhances the architectural features of the building and is approved by the City Council.
 7. Hours.
 - a. The use of outdoor lighting for parking lots serving commercial, industrial, and institutional uses shall be turned off one (1) hour after closing, except for approved security lighting.
 - b. All illuminated business identification signs shall be turned off between 11:00 PM and sunrise, except that said signs may be illuminated while the business facility on the premise is open for service.
 8. Glare. Direct or reflected glare from high temperature processes such as combustion or welding shall not be visible from any adjoining property.
 9. Outdoor Recreation. Outdoor recreational uses such as, but not limited to, baseball fields, football fields, and tennis courts have special requirements for night-time lighting. Due to these unique circumstances, a conditional use permit shall be required for outdoor lighting systems for such uses that do not comply with regulations of this Section, provided that:

- a. No public or private outdoor recreation facility shall be illuminated after 11:00 PM, except for required security lighting.
 - b. Off-street parking areas for outdoor recreation uses that are illuminated shall meet the requirements for commercial, industrial, and institutional applications as found in Section 1016-8.C.4 of this Ordinance.
 - c. The provisions of Section 1005-3 of this Ordinance are considered and satisfactorily met.
10. Outdoor Signs. Outdoor signs constructed of translucent materials and wholly illuminated from within do not require shielding.
11. The use of search lights for any business shall be allowed by administrative permit subject to the following standards:
- a. The use of search lights is limited to not more than two (2) events per calendar year.
 - b. During any one event, the use of search lights shall be limited to five (5) days consecutively and shall not be used between the hours of 10:00 PM and sunrise.

D. **Prohibitions:** The following outdoor lights are prohibited:

- 1. Flashing lights.

1016-9: SMOKE: The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7017, as may be amended.

1016-10: DUST AND OTHER PARTICULATE MATTER: The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7011, as may be amended.

1016-11: AIR POLLUTION: The emission of air pollution, including potentially hazardous emissions, by any use shall be in compliance with and regulated by Minnesota Statutes 116, as may be amended.

1016-12: NOISE: Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NCP 7010, as may be amended. In no case shall noise emanations constitute a nuisance as defined and regulated by this Code.

1016-13: BULK STORAGE (LIQUID): All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with County, State, and Federal agency requirements, and have documents from those respective agencies stating the use is in compliance.

1016-14: WASTE, REFUSE AND RECYCLABLE MATERIAL:

- A. **Waste Disposal:** All waste generated shall be disposed in a manner consistent with all Minnesota Pollution Control Agency rules.
- B. **Waste Not Stored in Containers:** Any accumulation of waste generated on any premises not stored in containers which comply with applicable requirements of this Ordinance and Minnesota Pollution Control Agency rules, or any accumulation of mixed Municipal solid waste generated on any premises which has remained thereon for more than one (1) week, or any accumulation of infectious, nuclear, pathological, or hazardous waste which is not stored and disposed in a manner consistent with Minnesota Pollution Control Agency rules is a nuisance and shall be abated and the cost of abatement may be assessed against the property where the nuisance is found.
- C. **Off-Site Waste:** The accumulation, storage, processing, and disposal of waste on any premises, which is not generated on that premises, is prohibited, except as specifically provided in this Ordinance.
- D. **Abandoned, Unlicensed, or Inoperable Vehicles:** Passenger automobiles and trucks not currently licensed by the State, or which are because of mechanical deficiency incapable of movement under their own power, parked or stored outside for a period in exceed of thirty (30) days, and all materials stored outside in violation of City Code provisions are considered refuse or junk and shall be abated in the manner provided for by Section 1003-9 of this Ordinance.
- E. **Location and Screening:**
 - 1. Single Family Dwellings, Duplexes, and all Other Residential Structures With Four (4) or Less Residential Units: Garbage cans and recycling bins shall be kept in rear or side yards and shall be screened from neighboring properties and the public right-of-way or shall be kept indoors.

2. Other Uses: All refuse, recyclable materials, and necessary handling equipment including but not limited to garbage cans, recycling bins, and dumpsters shall be stored within the principal structure, within an accessory building, or totally screened from eye-level view from all neighboring uses and the public right-of-way.
3. Exterior storage shall require the following:
 - a. Exterior wall or fence treatment shall be similar and/or complement the principal building.
 - b. The enclosed trash and/or recycling receptacle area shall be located in the rear or side yard and shall observe all applicable setback requirements and easements.
 - c. The trash and/or recycling enclosure shall be in an accessible location for pick up hauling vehicles.
 - d. The trash and/or recycling receptacles shall be fully screened from view of adjacent properties and the public right-of-way by a fence or wall of at least six (6) feet in height and a minimum opaqueness of eighty (80) percent.
 - e. All dumpsters, recycling bins, handling equipment, and enclosures shall be kept in a good state of repair with tight-fitting lids to prevent spilling and spread of debris. The construction of trash and recycling enclosures shall be per standards established by the City Building Official and all design and construction of such enclosures shall be subject to the Building Official's approval.

1016-15: OUTDOOR STORAGE:

- A. **District Requirements:** Except as herein provided or as specifically allowed within the specific zoning districts established by Chapter 1050 of this Ordinance, all materials and equipment shall be stored within a building.
- B. **Exceptions:**
 1. Clothes line pole and wires and play equipment.
 2. Recreational vehicles and equipment may be parked or stored outdoors as follows:
 - a. Two (2) recreational vehicles or pieces of equipment may be parked or stored outdoors.

- b. The recreational vehicle or equipment shall be parked or stored upon a hard, dust-free surface.
 - c. The recreational vehicle or equipment shall be set back a minimum of five feet (5') from any side or rear lot line and fifteen feet (15') from the edge of any public street.
 - d. Unless mounted on a trailer, or equipped with wheels, ice fishing houses or other such structures used or designed to be used as temporary shelters shall be subject to the area, setback and other provisions of Chapter 1018 of this Ordinance.
- 3. Construction and landscaping material currently being used on the premises.
 - 4. Off-street parking of motor vehicles as specified in the respective zoning districts.

C. Vehicle/Equipment Sales:

- 1. Residential Districts:
 - a. Personal vehicles, recreational vehicles, farm machinery, and equipment and similar merchandise offered for sale in residential zoning districts shall comply with the following:
 - (1) The merchandise sold in residential areas shall be the personal property of the occupant.
 - (2) Sales of personal merchandise herein addressed shall be limited to no more than three (3) items per calendar year.
 - (3) Merchandise items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.
 - (4) For sale signs on or in such merchandise shall be limited to four (4) square feet in area and three (3) feet in height.
 - b. Garage or rummage sales conducted in residential zones shall comply with the following:
 - (1) Sales shall be limited to a maximum of four (4) consecutive days and occurring no more than two (2) times within one calendar year per property.

(2) Signs shall be governed by Chapter 1024 of this Ordinance.

2. Non-Residential Districts: Motor, commercial and recreational vehicles shall not be displayed “for sale” or sold within non-residential districts unless as part of an approved licensed sales dealership or for short-term parking (twelve (12) hours or less) if the vehicle is owned by an employee of said business where the vehicle is parked with the consent of the business owner.