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# CITY OF MOTLEY

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## BOARD OF ADJUSTMENT/ PLANNING COMMISSION

MEETING PACKET FOR  
**July 26, 2016**





CITY OF MOTLEY  
PLANNING AND ZONING COMMISSION  
AGENDA  
July 26, 2016  
6:30 pm – Motley City Hall

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1. Call to Order
2. Roll Call
3. Public Hearings  
*(NOTE: members of the public wishing to comment on a particular public hearing will be given an opportunity during the appropriate public hearing)*
  - a. None
4. Additions or Deletions to Agenda
5. Open Forum  
*(NOTE: the open forum is an opportunity for members of the public to comment on any item not related to a specific agenda item, but relating to land use regulations or planning within the City)*
6. Approval of Minutes
  - a. April 26, 2016
7. Planning and Zoning Administrator's Report
8. Other Business
  - a. Discussion – Interpretation/Discussion of Ordinances
    - i. Building of accessory structure on a lot without a primary structure/RVs as primary structure/RVs as temporary dwelling
    - ii. Lack of fence regulations within all but the DMU zoning district
    - iii. Prohibition on Boathouses/Water-Oriented Accessory Structures
  - b. Use of land within Industrial Park
  - c. Discussion – Regulation of land uses within zoning districts
9. Adjournment

This agenda is not exclusive. Other business may be discussed as deemed necessary.

**Members of the public:**

*Please see the next page for the City of Motley's policy regarding "Standards of Conduct at Public Meetings".*

**CITY OF MOTLEY**  
**STANDARDS OF CONDUCT AT PUBLIC MEETINGS**

The City Council encourages good-faith testimony from its citizens and desires to provide an environment based on respect and civility. In order to do so, the City Council of the City of Motley has established the following Standards of Conduct at Public Meetings, based on the norms of acceptable and courteous business behavior:

1. Members of the audience wishing to address the Council shall first secure the permission of the Chairperson.
2. Members of the audience will refrain from disruptive actions such as hand clapping, stamping of feet, whistling, cheering, yelling or similar demonstrations, which conduct disturbs the peace and good order of the meeting and which conduct might have an intimidating effect upon members of opposing viewpoints.
3. Persons addressing the City shall also refrain from slurs against race, creed, color, religion, national origin, gender, sexual or affectional orientation, marital status, familial status, age, disability, or status with regard to public assistance.
4. Profanity, slander, false statements, violence, or the threat of violence in any form shall not be tolerated.
5. City Officials shall also comply with these **STANDARDS OF CONDUCT**, the City of Motley's **CODE OF ETHICS FOR PUBLIC OFFICIALS** and the **CITY OF MOTLEY CONFLICTS OF INTEREST POLICY**.

Violations of these **STANDARDS** shall be determined by the opinion of the Chairperson of the meeting or, absent such opinion, by the opinion of the majority of the members of the deliberating body.

1. Any person violating these standards shall be called to order by the Chairperson of the meeting. If such conduct continues, said person may, at the discretion of the Chairperson, lose the floor. With the exception of Elected Public Officials (e.g. City Council) at City Council meetings, said person may be denied further audience before the City for that meeting.
2. If said person refuses to come to order and obey the directives of the Chairperson of the meeting, the Chairperson may request that said person leave the building. An exception to this is made for Elected Public Officials at City Council meetings as protected by law.

## STAFF REPORT

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**Issue:** Interpretation/Discussion of Ordinances

**Agenda Item:** 8(a)

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### **Background Information:**

- **Issue:** As a result of questions from various landowners in the City, several ordinance issues have arisen for which Staff would request interpretation and/or discussion by the Planning Commission/City Council. These include:
  - How are the use of RVs as a temporary dwelling regulated by the Ordinance? How does the City wish them to be regulated and will that require an ordinance amendment?
    - The current ordinance allows for “camping” as a permitted use in the R1 zoning district, but not in the Downtown Mixed Use (DMU) or Industrial districts. In all other districts, it is not listed – which has meant that it is prohibited based on ordinance language
      - Section 5.1.7: “All uses are considered prohibited unless specifically allowed in this Code, even if they are not listed specifically under excluded uses”)
      - Camping = “Habitation of a temporary structure”
      - Temporary Structure = “A structure of a temporary character including but not limited to house boats, fish houses, recreational vehicles, tents or shacks, used as dwellings for more than a 5 day period per year. Any new dwelling constructed or placed after the date of this Ordinance and not on a permanent foundation shall be considered a temporary structure.”
      - The current ordinance does not set a limit for time that camping is allowed. Many ordinances do provide some sort of limit (i.e. 90 days in any calendar year, 14 days in any month, no more than 14 consecutive days, etc...)
  - The current ordinance prohibits the placement of an accessory structure on a lot that doesn’t have a primary structure. Is this how the City wishes to continue regulating such lots? Does it wish to retain that prohibition on smaller lots close to the “core” of the City but not on larger lots or those more at the outskirts of the City?
    - Section 5.1.6.A: “All accessory structures or uses require the establishment of a principle structure.”
    - Many cities have such a prohibition due to the typically small size of city lots and desire to avoid the proliferation of lots that just are used for storage.

- One challenge this kind of regulation raises is whether a person who has a house and buys/owns an adjacent city lot is allowed to construct a home on that adjacent parcel. Combining both lots into one Parcel ID for tax purposes may address this concern, but due to state statutes regarding what is considered a buildable lot, it is possible in many cases that the lot with just a garage could later be sold as its own lot to a different landowner who doesn't own adjacent land.
    - Do larger lots that are more rural in nature raise the same concerns as small lots? If not, they could be allowed absent a primary structure, but perhaps regulated in terms of maximum size/height.
  - Would an RV being used as a temporary dwelling be considered a "principle structure" for the purposes of allowing an accessory structure.
    - Given that the use of an RV as a temporary dwelling would be considered "camping" Staff would recommend that they not be considered a "principle structure".
    - Primary structure or use = "The single primary structure or use on a lot, as distinguished from accessory uses or structure."
  - How does the City wish to regulate fences based on current ordinances? They are only specifically regulated in the DMU district (6 ft max. height on all property lines). Regulations regarding fences were part of the MN Basic Code that the City partially adopted back in 2004, but that section was not specifically adopted.
    - Section 5.10.D (Current adopted ordinance for the DMU district only): "Fences - Fences not exceeding 72 inches in height may be constructed. Fencing shall only be constructed closer than 10 feet from the surface of a public road with the permission of the Planning Commission and in all cases not within the public right of-way. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is allowed only with the permission of the Planning Commission."
    - MN Basic Code Fence Regulations (not currently adopted by the City):
 

PERMITS AND REQUIREMENTS FOR FENCES, WALLS OR HEDGES

§ 151.45 APPLICATION.

The requirements of this subchapter shall apply to all new or replacement fences, walls, or shrubbery erected or installed from and after the effective date of this subchapter, but shall not apply to the mere repair of existing fences.

§ 151.46 GENERAL REQUIREMENTS.

(A) All fences of more than 30 inches in height shall require a permit.

(B) No fence shall contain barbed wire.

(C) No fence shall be charged with electric current.

(D) No fence, wall or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(E) Fences must be maintained so as not to endanger life or property and any fence which, through lack of repair, type of construction or otherwise, that imperils health, life or property or the well-being of a neighborhood shall be deemed a nuisance.

(F) All fences must be located on the private property of the person, firm or corporation constructing the fence.

(G) All fences must comply with all other requirements of law or this code as it applies to fence installation and materials.

§ 151.47 RESIDENTIAL REGULATIONS.

(A) Prohibited material. No fence or wall shall be constructed of any electrically charged element or barbed wire.

(B) Approved material. All fences in residential districts shall be constructed of stone, brick, finished wood, chained link or vinyl. The finished side of the fence, or that side of the fence without exposed support or posts, shall face the neighboring property or streets.

(C) Side and rear yard requirements. No fence or wall located in a side or a rear yard shall be of height exceeding four feet, measured from its top edge to the ground at any point.

(D) Front yards. No fence or wall shall be located in a front yard.

(E) Maintenance. Every fence or wall shall be maintained in a good and safe condition at all times. Every damaged or missing element of any fence or wall shall be prepared or replaced immediately.

(F) Setbacks. No fence may be located less than six inches from a property line. No fence, wall, hedge or other screening device shall be permitted to encroach on any public right-of-way.

§ 151.48 VARIANCE.

Any deviation from the provisions of this subchapter shall require a variance. If a variance is requested, the variance shall be considered in accordance with the zoning variance procedures and fees for this variance will be in accordance with the zoning variance fee.

- The current ordinance currently prohibits Boathouses in all zoning districts. Does the City wish to retain this prohibition or allow for them in certain instances?
  - Section 5.1.6.E (Current adopted ordinance): “Water oriented accessory structures, including boathouses, are prohibited.”
  - DNR requirements for water-oriented accessory structures:
    - Water-oriented accessory structure or facility. “Water-oriented accessory structure or facility” means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.
    - Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 5.21 of this ordinance if this water-oriented accessory structure complies with the following provisions:
      - (1) the structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
      - (2) the setback of the structure or facility from the ordinary high water level must be at least ten feet;
      - (3) the structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
      - (4) the roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

(5) the structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

(6) as an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.



## STAFF REPORT

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**Issue:** Regulation of land uses within zoning districts

**Agenda Item:** 8(c)

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### **Background Information:**

- **Issue:** The Commission/Council has directed staff to begin drafting out an amended land use matrix. Based on previous discussions of the Commission and after reviewing several options for how to structure this section, Staff has prepared a land use matrix that attempts to list out a wider variety of land uses than existed before. Further, some of the land uses previously listed were eliminated when they could be combined under a somewhat broader heading or were duplicative or confusing in some manner.

As per the direction of the Commission, the attached is a draft amendment to the Land Use Matrix for just one section – the section relating to residential uses.

We will plan to continue working through this section until completed, and then begin moving through the other sections in the coming months.

<u>Animal Feedlot</u>									
<u>Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Commission</u>									

Key: A = Allowed, no permit required; P = A use allowed, but which may require a land use permit; CU = A use requiring a Conditional Use Permit; IU = A use requiring an Interim Use Permit; X = not permitted.

<u>RESIDENTIAL USES</u>	<u>NR</u>	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>DM</u> <u>U</u>	<u>PU</u>	<u>C2</u>	<u>I</u>
<u>Accessory Dwelling Unit</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>E</u>	<u>C</u>	<u>C</u>
<u>Bed and Breakfast Facilities</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>E</u>	<u>C</u>	<u>C</u>
<u>Dwelling</u>									
<u>Single Family</u>	<u>E</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Second single family on a parcel (permanent)<sup>63</sup></u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>		<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Second single family on a parcel (temporary)<sup>64</sup></u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>E</u>	<u>C</u>	<u>C</u>
<u>Multi-Family (2 units)</u>	<u>E</u>	<u>C</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Multi-Family (3-4 units)</u>	<u>E</u>	<u>E<sup>65</sup></u>	<u>C</u>	<u>P</u>		<u>P</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Multi-Family (5+ units), including rental offices and private recreational facilities for the enjoyment of residents.</u>	<u>E</u>	<u>E<sup>66</sup></u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Guest Cottage (riparian lots only)</u>	<u>E</u>	<u>C</u>	<u>N/A</u>	<u>N/A</u>		<u>N/A</u>	<u>E</u>	<u>N/A</u>	<u>N/A</u>
<u>Mobile/Manufactured Home Park</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>

<sup>63</sup> Except as part of an approved planned unit development (PUD).

<sup>64</sup> Added 8/4/2014 (Resolution #14-02)

<sup>65</sup> Except as part of an approved planned unit development (PUD).

<sup>66</sup> Except as part of an approved planned unit development (PUD).

<u>Travel Trailers/ Campers/ Recreational Vehicles (1 per lot)</u>	<u>E</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Keeping of Animals</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>E</u>	<u>C</u>	<u>C</u>
<u>Home Occupations, Low Activity</u>	<u>E</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Home Occupations, Moderate Activity</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>P</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Home Occupations, High Activity</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>		<u>P</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Planned Unit Developments – Residential (R1 shoreland district)</u>	<u>E</u>	<u>C</u>	<u>N/A</u>	<u>N/A</u>		<u>N/A</u>	<u>E</u>	<u>N/A</u>	<u>N/A</u>
<u>Planned Unit Development – Single-Family</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Planned Unit Development – Multi-Family</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Solar Energy Systems and Structures, Individual</u>	<u>E</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Solar Energy Systems and Structures, Neighborhood</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>E</u>	<u>C</u>	<u>C</u>
<u>Solar Energy Systems and Structures, Large Scale (Solar Farm)</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>		<u>E</u>	<u>E</u>	<u>C</u>	<u>C</u>
<u>Telecommunication antennas and towers, for personal use.</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Commission</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

Key: A = Allowed, no permit required; P = A use allowed, but which may require a land use permit; CU = A use requiring a Conditional Use Permit; IU = A use requiring an Interim Use Permit; X = not permitted.

<u>COMMERCIAL USES</u>	<u>NR</u>	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>DM</u> <u>U</u>	<u>PU</u>	<u>C2</u>	<u>I</u>
<u>Adult Uses/Adult Oriented Business</u>								