

memorandum

DATE: February 22, 2023
TO: Mayor Kelly Garrett and Lathrup Village City Council
FROM: Jill Bahm & Eric Pietsch, Giffels Webster
SUBJECT: Zoning Amendment – Waste and Rubbish

Introduction

What prompted this amendment?

When a tenant space of an existing, commercial facility proposes a new occupancy or change of use, the zoning code requires a plan for solid waste disposal and removal. Not all existing commercial sites provide or have a need, or space for a dumpster enclosure, or an indoor space to store solid waste and refuse, as required by the ordinance. Many commercial uses, whether stand-alone or as part of a strip facility, do not produce significant waste that would require the use of a dumpster, nor might they have the capacity to provide indoor storage for solid waste. When comparing the zoning code to the general code, the general code provides simplicity and direction for how the zoning code should establish the handling of solid waste and rubbish at commercial sites of varying size.

Current Ordinance

The site development standards of Article 5 include waste and rubbish under Section 5.3, which allows for the special permitted use of commercial refuse containers (dumpsters) under a list of reasonable conditions. An additional standard requires every building in every district, except R1 and R2, to provide within the building, a fire protected waste and refuse storage space measuring at least 225 cubic feet.

Section 5.3.2 states: Every building in every district other than R1 and R2 shall provide within the building a fire protected waste and refuse storage space or spaces measuring five cubic feet for each 100 square feet of building floor area, but at least 225 cubic feet. To be acceptably fire protected, the waste and refuse storage space must be in an enclosure or room with a one-hour fire rated construction with self-closing fire door and must have sprinkler heads installed and maintained in working order. The heating furnace may not be located in the waste and refuse storage space.

Considerations

What are the appropriate options for commercial solid waste and rubbish storage and removal?

After considering an amendment to Section 5.3, it is found that the layout of the standards is generally suitable to determine what is required of a site seeking building permit approval. We recommend the following:

In lieu of removing the requirement to provide a minimum of 225 cubic feet of indoor waste storage from the ordinance, this standard should be changed from “shall provide” to “may provide”. This would allow for the indoor storage of waste as an option for commercial development, where appropriate. The language,

as written, would maintain the standards for pursuing this option. Additionally, the primary focus of Section 5.3 relates to outdoor storage and removal of solid waste. The indoor storage option should be relocated to the bottom of Section 5.3 so that the criteria for outdoor storage and pick up has a more seamless flow. See proposed amendment document attached.

Very minor alterations to the language of outdoor storage and pick up are intended to provide clarity and simplicity as to what is expected of proposed commercial uses within the city. These small changes, as reflected in the attached amendment document, are in conjunction with the language of the general code's requirements and are thought to present common sense and effective solid waste standards for all types of commercial development in the city.

The general code may be referenced pertaining to solid waste under Chapter 54, Sections 1 through 71.

Summary / Recommendation

At the February 21, 2023 meeting, the Planning Commission moved to amend the zoning ordinance to provide clarity to the requirements of waste removal from residential and non-residential properties and forward the amendment draft to City Council for adoption. The attached draft outlines the proposed changes that may be considered.

As mentioned above, these include the keeping of covered rubbish containers in inconspicuous locations out of public view (Sec. 5.3.1) and allowing interior, fire protected storage space of waste as an option rather than a requirement (Sec. 5.1.3).

Amend Article 5 to revise Section 5.3, Waste and Rubbish

Amend Article 5, Site Development Standards, to amend the language of Section 5.3 as follows:

Section 5.3. Waste and Rubbish

1. No garbage, sewage, filth, refuse, waste, trash, debris, or rubbish, including cans, bottles, wastepaper, cartons, boxes, crates, inoperable machinery, discarded building materials, discarded household goods, or any offensive or obnoxious matter, shall be kept in open containers or piled, placed, or stored on the open ground. The owners and occupants of every building shall provide proper, covered receptacles for said waste and keep receptacles clean and in an inconspicuous location, out of public view, on the grounds outside of a building. Rubbish may, however, be placed at roadside for pickup on designated days in conformity with the city's ordinances regulating rubbish collections.
2. In all districts other than R1, commercial refuse containers of a capacity not to exceed eight cubic yards in size (with or without compactor attached) shall be permitted on a special permit basis in accordance with the following provisions:
 - A. Condition. They must be maintained in a clean, well painted, and structurally solid condition. They must be kept covered or closed at all times except when a person is in attendance for the purpose of depositing or emptying refuse. No refuse shall be caused or permitted to spill over from the container or to litter the surrounding area or neighboring properties. They shall be emptied at sufficiently frequent intervals to prevent their being filled beyond the capacity with the lid or cover closed, but they shall not be dumped or emptied before 8:00 a.m. nor after 9:00 p.m.
 - B. Odors. No odors shall be permitted to emit therefrom which are discernable to the human senses more than ten (10) feet away from the container.
 - C. Location. Dumpsters shall be permitted in the side or rear yard, provided that no dumpster shall extend closer to the front of the lot than any portion of the principal structure and provided further that the dumpster shall not encroach on a required parking area, is clearly accessible to servicing vehicles, and is located at least ten (10) feet from any building. Dumpsters shall comply with the setback requirements for the district in which they are located. Dumpsters shall be located as far as practicable from any adjoining residential district.
 - D. Concrete pad. Dumpsters shall be placed on a concrete pad. The concrete pad should extend a minimum of three feet in front of the dumpster enclosure.
 - E. Screening. All refuse bins located in the city must be enclosed or screened from public view. Such screening shall consist of a wall or fence not less than one (1) foot higher than the height of the refuse bins placed therein, which completely conceals its contents from public view, but in no instance shall such screening be less than six (6) feet in height on three (3) sides. The fourth side of the dumpster screening shall be equipped with an opaque, lockable gate that is the same height as the enclosure around the other three sides. The inside dimensions of the enclosure shall be such as will permit adequate access for refuse collection vehicles as well as completely enclose refuse bins within the three (3) sides so that no refuse bin projects outside of the open side.

Screening materials shall consist of any of the following:

- i. Masonry, consisting of those materials permitted under the building material standards contained in, "Zoning Ordinance," section 5.4;
- ii. Wood, provided the wood is cedar, redwood, or equivalent of at least five-eighths-inch (1.5875 centimeters) thickness or other types of wood which have been pressure treated with preservatives. If cedar or redwood are used in the screening, it shall be

protected from possible rot or decay by the application of a preservative. Wood that has been pressure treated need not be further protected from possible rot or decay;

- iii. Evergreen shrubbery consisting of permanent, living plant materials which shall be continuously maintained in a sound, healthy and vigorous growing condition, free of plant diseases and insect pests, and free of weeds, refuse and debris. The shrubbery shall be planted and maintained so as to create a continuous barrier.
 - F. Bollards. Bollards (concrete-filled metal posts) or similar protective devices shall be installed at the opening to prevent damage to the screening wall or fence.
 - G. Site plan requirements. The location and method of screening of dumpsters shall be shown on all site plans.
 - H. Permit Requirements. No container shall be placed or permitted to remain on any lot unless there is in effect a special permit issued by the building official in conformity with the provisions of article 6.
 - I. Nonconforming enclosures existing on April 8th, 2014. Enclosures which were constructed in accordance with the ordinances and other applicable laws in effect on the date of its construction, but which by reason of its size, height, location, design, or construction is not in conformance with the requirements of this chapter, may be lawfully continued until April 1, 2019.
3. Every building in every district other than R1 and R2 may provide within the building a fire protected waste and refuse storage space or spaces measuring five cubic feet for each 100 square feet of building floor area, but at least 225 cubic feet. To be acceptably fire protected, the waste and refuse storage space must be in an enclosure or room with a one-hour fire rated construction with self-closing fire door and must have sprinkler heads installed and maintained in working order. The heating furnace may not be located in the waste and refuse storage space.