

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

DATE: 9/9/2013  
ITEM NO: 9.a

Department Approval



City Manager Approval

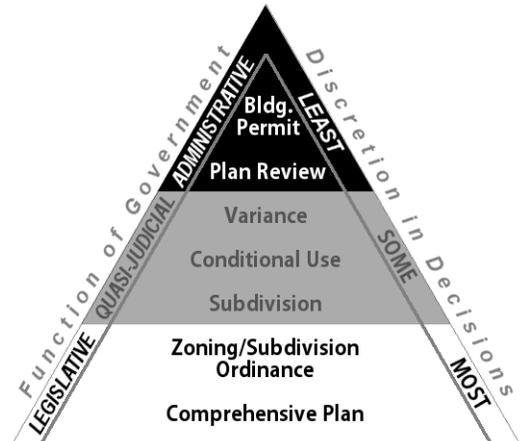


Item Description: Approve Zoning Text Changes to Section 1004 (Residential Districts) of the City Code to Clarify the Intent of Certain Requirements Related to Storm Water

**Application Review Details**

- Public hearing: April 3, 2013
- RCA prepared: August 29, 2013
- City Council action: September 9, 2013
- Statutory action deadline: n/a

Action taken on a zoning text change request is **legislative in nature**; the City has broad discretion in making land use decisions based on advancing the health, safety, and general welfare of the community.



- 1 **1.0 REQUESTED ACTION**
- 2 A particular provision in the one- and two-family zoning districts that addresses hard
- 3 surfaces and rain water runoff needs some clarification with respect to its intent and
- 4 applicability, and Planning Division staff is requesting a ZONING TEXT CHANGE to make
- 5 these corrections.
- 6 **2.0 SUMMARY OF RECOMMENDATION**
- 7 Planning Division staff concurs with the recommendation of the Planning Commission to
- 8 approve the proposed ZONING TEXT CHANGE; see Section 7 of this report for the detailed
- 9 recommendation.
- 10 **3.0 SUMMARY OF SUGGESTED ACTION**
- 11 Pass an ordinance approving the proposed ZONING TEXT CHANGE; see Section 8 of this
- 12 report for the detailed action.

13 **4.0 BACKGROUND**

14 4.1 The proposed ZONING TEXT CHANGE is a continuation of the effort to refine regulations  
15 that are intended to facilitate reasonable and beneficial improvements to residential  
16 properties when those improvements represent minor deviations from certain standard  
17 zoning requirements. Roseville’s housing stock has generally been well maintained, but  
18 as the space needs and preferences of homeowners change over time, even small  
19 improvements can be limited by zoning regulations. For much of Roseville’s history, a  
20 variance was required for even minor deviations from Code requirements but, if the  
21 property owner could not demonstrate the “hardship” condition essential for approving a  
22 variance, the homeowner would be discouraged from continuing to make investments in  
23 the property.

24 4.2 In 1999 the Zoning Ordinance was amended to allow the Community Development  
25 Director to review and approve (subject to certain conditions and criteria) limited  
26 encroachments into required setbacks without requiring the homeowner prove that s/he  
27 would be burdened by some undue hardship if the provisions of the Code were strictly  
28 enforced. The policy decision at that time was that facilitating ongoing investment in  
29 Roseville’s aging housing stock on a case-by-case basis was more preferable than  
30 relaxing the zoning requirements across the board (e.g., reducing the required front  
31 setback from 30 feet to 25 feet) or effectively preventing reasonable improvements by  
32 strictly enforcing the existing City Code. Since that “Setback Permit” process was  
33 adopted, at least 175 such minor deviations were reviewed administratively through June  
34 2008, most of which were approved, since applications are typically not submitted if the  
35 primary conditions for approval cannot be achieved by the property owner. Without such  
36 an administrative process of review and approval, the vast majority of the residential  
37 improvements represented by the Setback Permit applications would never have been  
38 made because of the lack of a true “hardship”.

39 4.3 Then, in 2008, Roseville expanded the administrative approval process to address slight  
40 increases in impervious coverage beyond the standard limits, and the Setback Permit was  
41 renamed as the less-specific “Administrative Deviation.” Since additional impervious  
42 surfaces increase storm water runoff, Administrative Deviations for excess impervious  
43 coverage were only approved with the condition that the excess storm water be calculated  
44 and infiltrated on the property by, say, installation of a rain garden. Such a condition was  
45 consistent with all impervious coverage variances for the preceding couple of years.

46 4.4 While Roseville had now found a way to both allow small increases in impervious  
47 coverage and to mitigate the resulting increase in storm water runoff, the City had not yet  
48 established a process for ensuring that a required rain garden, for example, would  
49 continue to function properly over time. Without proper, ongoing maintenance, silt and  
50 debris carried by storm water will eventually clog rain gardens, pervious paving systems,  
51 and so on, causing them to fail and allowing the excess storm water to run off of the site  
52 and cause problems somewhere down stream. A process to ensure the ongoing mitigation  
53 of storm water related to excess impervious coverage had been roughly worked out in  
54 2010 and written in to the new zoning code adopted in December of that year. Since then,  
55 the Residential Storm Water Permit regulations have been fully established within  
56 Roseville’s Engineering Division, and the proposed ZONING TEXT CHANGE is intended  
57 remove the technical requirements from the zoning code in order to leave regulation to  
58 the more-qualified Engineering Division staff.

59 4.5 Because this request is initiated by the City rather than by an outside applicant, the State-  
60 mandated 60-day timeline does not apply in this case; this is noted merely to explain the  
61 “n/a” (i.e., not applicable) notation in the Application Review Details section above.

## 62 **5.0 PROPOSED ZONING TEXT CHANGES**

63 The proposed ZONING TEXT CHANGES are shown in the draft ordinance included with this  
64 report as Attachment A; proposed insertions will be represented in **bold** text, and  
65 proposed deletions will be shown in ~~striketrough~~ text. A brief discussion of the  
66 proposed changes can be found in the paragraphs below.

67 5.1 The introductory paragraph of the zoning provision means to establish the intent of the  
68 regulations, and several changes are proposed to augment and further clarify the intent.

69 5.2 Subsection 2 of this provision is mostly new, but the proposed change reflects the  
70 original goal for the regulation. The Residential Storm Water Permit (ReSWP) is a new  
71 tool that means to encourage continued investments in aging residential properties by  
72 allowing for increases in paved surfaces and building footprints beyond normal code  
73 limits so long as appropriate measures are taken to ensure that such improvements don’t  
74 cause storm water problems elsewhere. The proposed amendment eliminates most of the  
75 technical detail of the original ordinance in order to minimize redundancy and to prevent  
76 inconsistencies with the ReSWP requirements. The proposed amendment also clarifies  
77 that the ReSWP is not meant to be used for most new or recent home construction nor  
78 new property subdivisions that would lead to existing paved surfaces and/or building  
79 footprints covering more than the standard 25% or 30% of the newly-configured parcel.

## 80 **6.0 PUBLIC COMMENT**

81 The duly-noticed public hearing for this proposal was held by the Planning Commission  
82 on April 3, 2013, after which the Planning Commission voted unanimously (7-0) to  
83 recommend approval of the ZONING TEXT CHANGE; the minutes of the public hearing are  
84 included with this report as Attachment B. As of the time this report was prepared,  
85 Planning Division staff has not received any communications from the public.

## 86 **7.0 RECOMMENDATION**

87 Based on the comments and findings outlined in Sections 4 – 6 of this report, the  
88 Planning Division concurs with the recommendation of the Planning Commission to  
89 approve the ZONING TEXT CHANGE.

## 90 **8.0 SUGGESTED ACTION**

91 8.1 **Pass an ordinance approving the ZONING TEXT CHANGE**, based on the comments and  
92 findings of Sections 4 – 6 and the recommendation of Section 7 of this staff report.

93 8.2 **By motion, approve the proposed ordinance summary for publication.**

**Prepared by: Associate Planner Bryan Lloyd**  
**651-792-7073 | bryan.lloyd@ci.roseville.mn.us**

Attachments: A: Draft ordinance C: Draft ordinance summary  
B: 4/3/2013 public hearing minutes

## City of Roseville

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING IMPROVEMENT AREA REGULATIONS OF CHAPTER 1004  
(RESIDENTIAL DISTRICTS) OF TITLE 10 "ZONING CODE" OF THE ROSEVILLE CITY  
CODE

## THE CITY OF ROSEVILLE ORDAINS:

**SECTION 1. Purpose:** The Roseville City Code is hereby amended to further clarify the intent of Improvement Area regulations in Low-Density Residential Districts, and eliminate technical detail from the zoning code in order to minimize redundancy and to prevent inconsistencies with the relevant regulations maintained elsewhere in the City Code.

**SECTION 2. Section 1004.08 (Low-Density Residential-1) is hereby amended as follows:**

- C. Improvement Area: Improvement area, including paved surfaces ~~and~~, the footprints of principal and accessory buildings, and **other** structures **like decks, pergolas, etc.**, shall be limited to 50% of the parcel area. **The purpose of this overall improvement area limit is to allow for rather liberal construction on a residential property while preventing over-building.** ~~Notwithstanding~~ **Within** this **improvement area** limit, ~~storm water runoff shall be limited to the amount of runoff generated during a 1-inch rain event over a 24-hour period by impervious~~ **paved surfaces and building footprints** ~~covering~~ **shall be limited to** 30% of a parcel; for parcels within a Shoreland or Wetland Management District, ~~storm water runoff~~ **paved surfaces and building footprints** shall be further limited to the amount of runoff generated under the same circumstances by impervious surfaces ~~covering~~ 25% of the parcel area. **The purpose of these further limits on paved surfaces and building footprints within the overall improvement area allowance is to prevent problems caused by excess storm water runoff.**
1. For the purposes of this section, "improvements" does not include **yard ornaments**, fences, retaining walls, **gardens**, planting beds, or other landscaping.
  2. **Exception: For properties at least 20 years old, the above limits on paved surfaces and building footprints may be exceeded, within the allowed improvement area, by receiving a Residential Storm Water Permit (ReSWP) from the City Engineer. Because additional paved surfaces and buildings generate additional storm water runoff, the ReSWP** ~~Effectively is designed to mitigate~~ **mitigate excess** storm water runoff ~~relies on~~ **through** technical analysis of building materials, soils, slopes, and other site conditions. ~~In order to ensure adequate and ongoing mitigation of storm water runoff, improvements which would cause pavement or building footprints to exceed 30% (25% in a Shoreland or Wetland Management District) of a parcel's area shall require the property owner to:~~
    - a. **The purpose of this exception is to encourage homeowners to modernize and improve older properties while maintaining the overall character of the community.**

a.b. **For the purposes of the ReSWP, age of a property is determined by the newer of the house construction or the configuration of the parcel boundaries; age is calculated by subtracting the year in which the home was constructed, or the year in which the parcel boundaries were established in their present configuration, from the year of application for ReSWP. Notwithstanding this age limitation, a ReSWP may be considered for a newer property which cannot be practically used by mobility-impaired occupants.**

a. ~~Receive a Residential Storm Water Permit from the City Engineer;~~

b. ~~Submit annual maintenance letters, documenting the ongoing, required maintenance of the storm water mitigation system; and~~

c.a. ~~Receive a Residential Storm Water Permit recertification inspections by Engineering Division staff every 5 years.~~

### SECTION 3. Section 1004.09 (Low-Density Residential-2) is hereby amended as follows:

- C. Improvement Area: Improvement area, including paved surfaces ~~and~~, the footprints of principal and accessory buildings, and **other** structures **like decks, pergolas, etc.**, shall be limited to 50% of the parcel area. **The purpose of this overall improvement area limit is to allow for rather liberal construction on a residential property while preventing over-building.** ~~Notwithstanding~~ **Within** this **improvement area** limit, storm water runoff shall be limited to the amount of runoff generated during a 1-inch rain event over a 24-hour period by impervious **paved** surfaces **and building footprints** covering **shall be limited to** 30% of a parcel; for parcels within a Shoreland or Wetland Management District, storm water runoff **paved surfaces and building footprints** shall be further limited to the amount of runoff generated under the same circumstances by impervious surfaces covering 25% of the parcel area. **The purpose of these further limits on paved surfaces and building footprints within the overall improvement area allowance is to prevent problems caused by excess storm water runoff.**

2-3. For the purposes of this section, "improvements" does not include **yard ornaments**, fences, retaining walls, **gardens**, planting beds, or other landscaping.

**4. Exception: For properties at least 20 years old, the above limits on paved surfaces and building footprints may be exceeded, within the allowed improvement area, by receiving a Residential Storm Water Permit (ReSWP) from the City Engineer. Because additional paved surfaces and buildings generate additional storm water runoff, the ReSWP** ~~Effectively is designed to mitigate~~ **mitigate excess** storm water runoff ~~relies on~~ **through** technical analysis of building materials, soils, slopes, and other site conditions. ~~In order to ensure adequate and ongoing mitigation of storm water runoff, improvements which would cause pavement or building footprints to exceed 30% (25% in a Shoreland or Wetland Management District) of a parcel's area shall require the property owner to:~~

a. **The purpose of this exception is to encourage homeowners to modernize and improve older properties while maintaining the overall character of the community.**

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**a.b. For the purposes of the ReSWP, age of a property is determined by the newer of the house construction or the configuration of the parcel boundaries; age is calculated by subtracting the year in which the home was constructed, or the year in which the parcel boundaries were established in their present configuration, from the year of application for ReSWP. Notwithstanding this age limitation, a ReSWP may be considered for a newer property which cannot be practically used by mobility-impaired occupants.**

~~d. Receive a Residential Storm Water Permit from the City Engineer;~~

~~e. Submit annual maintenance letters, documenting the ongoing, required maintenance of the storm water mitigation system; and~~

~~f.b. Receive a Residential Storm Water Permit recertification inspections by Engineering Division staff every 5 years.~~

**SECTION 4 Effective Date:** This ordinance amendment to the Roseville City Code shall take effect upon passage and publication.

Passed this 9<sup>th</sup> day of September 2013

1 **PROJECT FILE 0017**  
2 **Request by the Planning Division for approval of ZONING TEXT CHANGES to Section 1004 (Residential**  
3 **Districts) of the City Code to clarify the intent of certain requirements related to storm water (PROJ-**  
4 **0017)**

5 Chair Gisselquist opened the Public Hearing for Project File 0017 at approximately 7:09 p.m.

6 Mr. Lloyd reviewed the proposed TEXT AMENDMENTS as detailed in the staff report dated April 3, 2013;  
7 specific to one- and two-family zoning districts that addresses hard surfaces and clarifies the intent and  
8 applicability of provisions for rain water runoff. Some examples of issues included decks not typically  
9 considered impervious surfaces as they allowed for some drainage, but also having the potential to consume a  
10 majority of a site up to within two feet of the property boundaries. By adding an upper limit of things that could  
11 be built on a site, Mr. Lloyd advised that the buildable portion of a lot could be addressed in residential  
12 neighborhoods, allowing some expectations of what to expect from adjoining properties.

13 Mr. Lloyd addressed more specifics of this provision, reflecting a new tool for encouraging continued investment  
14 in aging residential properties, as addressed in the Residential Storm Water Permit (ReSWP) as detailed in  
15 Section 5.2 of the staff report.

16 At the request of Member Boguszewski, Mr. Lloyd confirmed that items highlighted in Attachment A in red were  
17 proposed new language, those items stricken were intended for deletion from current language, and the  
18 remaining black font print would remain. Mr. Lloyd further confirmed that the impervious surface percentages  
19 were already in place and nothing new, but the amended text provided clarifying examples and a new process  
20 that may allow for some exceptions. On the exceptions, Mr. Lloyd confirmed that they would still require a  
21 permit and fee, and that property plans would be reviewed by the Public Works/Engineering Department with  
22 specific triggers defining that review on an administrative level, but not through a formal public meeting process.  
23 While the 2010 Zoning Code update addressed that review and monitor maintenance by the Public  
24 Works/Engineering Department, Mr. Lloyd noted that a definite process was now set up, and required  
25 applicants to hire a landscape architect or company to make calculations for site drainage and storm water  
26 mitigation to address requirements of the ReSWP, with third party involvement over time to ensure mitigation  
27 steps remain in place and continue to function.

28 Various examples were discussed among Members and staff; as well as accessibility for mobility-impaired  
29 occupants; new technologies for pervious and semi-pervious surface applications; and review of some issues  
30 as part of the normal building permit process beginning at the Community Development Department, unless a  
31 trigger was identified requiring further review by the Public Works/Engineering Department to ensure that storm  
32 water requirements of the ReSWP were met.

33 Further discussion included updates in 2010 that incorporated patios and decks in the site improvement  
34 permitting process, provided for a lower intensity review of site improvements not requiring a more formal  
35 building permit.

36 Member Daire suggested that before anticipating doing anything on a property, it would be a good idea to check  
37 with the City to determine if a permit was required. Member Daire opined that a person's latitude for his property  
38 was disappearing.

39 Mr. Lloyd responded affirmatively; however, he noted that the City's Building Permit Inspector was good at  
40 observing things throughout the community and determining whether or not those improvements needed or had  
41 obtained a permit, and working well with residents in the process.

42 At the request of Member Cunningham, Mr. Lloyd addressed rationale for ReSWP mitigation and maintenance  
43 requirements.

44 Member Boguszewski opined that the proposed text amendments made it easier for property owners, under  
45 certain circumstances, to improve their property.

46 Mr. Lloyd concurred, noting that up until approximately five years ago, the only way for a residential property  
47 owner to get more impervious coverage limits was through a formal variance process. Since then, Mr. Lloyd  
48 advised that many of those variances were routinely granted through the administrative process; however until  
49 this proposed text amendment, exceptions could not be addressed to ensure proper maintenance of storm  
50 water features to ensure they continued to function and didn't become problematic for neighboring properties.  
51 Mr. Lloyd advised that this was an attempt to make the process one step simpler through a permitting process  
52 versus the formal variance process.

53 At the request of Member Boguszewski, Mr. Lloyd estimated approximately 80% or more of the City's LDR-1  
54 and LDR-2 structures were over twenty (20) years old; and even though that time frame incorporated a lot of  
55 development during the 1990's, it was a good place to start.

56 Chair Gisselquist closed the Public Hearing at approximately 7:38 p.m.; with no one appearing for or against.

57 **MOTION**

58 **Member Boguszewski moved, seconded by Member Gisselquist to recommend to the City Council**  
59 **APPROVAL of the proposed TEXT AMENDMENT, as detailed and based on the comments and findings**  
60 **of Section 4-6, and the recommendation of Section 7 of the staff report dated April 3, 2013.**

61 Member Boguszewski opined that he had no interest in changing the twenty year timeframe; and that property  
62 owners should be allowed to do as much as possible on their private property as long as it didn't prove harmful  
63 to their neighbors or the overall city.

64 Member Daire concurred with Member Boguszewski; and as a retired professional Planner, expressed his  
65 observation in the amount of public concern had been manifested in the permitting process. While not a change  
66 he liked to see, Member Daire recognized valid concerns in a fully-developed area.

67 **Ayes: 7**

68 **Nays: 0**

69 **Motion carried.**

70 Anticipated City Council action is scheduled for April 15, 2013.

**City of Roseville**

**ORDINANCE SUMMARY NO. \_\_\_\_**

**AN ORDINANCE AMENDING IMPROVEMENT AREA REGULATIONS OF CHAPTER 1004  
(RESIDENTIAL DISTRICTS) OF TITLE 10 “ZONING CODE” OF THE ROSEVILLE CITY CODE**

The following is the official summary of Ordinance No. \_\_\_\_ approved by the City Council of Roseville on September 9, 2013:

The Roseville City Code, Title 10, Zoning Code, has been amended to further clarify the intent of Improvement Area regulations in Low-Density Residential Districts, and eliminate technical detail from the zoning code in order to minimize redundancy and to prevent inconsistencies with the relevant regulations maintained elsewhere in the City Code.

A printed copy of the ordinance is available for inspection by any person during regular office hours in the office of the City Manager at the Roseville City Hall, 2660 Civic Center Drive, Roseville, Minnesota 55113. A copy of the ordinance and summary shall also be posted at the Reference Desk of the Roseville Branch of the Ramsey County Library, 2180 Hamline Avenue North, and on the Internet web page of the City of Roseville ([www.ci.roseville.mn.us](http://www.ci.roseville.mn.us)).

Attest: \_\_\_\_\_  
Patrick Trudgeon, Interim City Manager