

COMMUNITY DEVELOPMENT

MEMORANDUM

Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

To: Planning and Zoning Commission
From: Andrew Fangman, City Planner
Date: December 11, 2018
Re: City Council Request for a Recommendation of a Potential Change to Parking Lot Surfacing Standards

At the November 15th City Council meeting Councilman Saucedo made a request to initiate a change in City Code to exempt Light Industrial (M-1), General Industrial (M-2), and General Commercial (C-1) zoned parcels from the present requirement for the hard surfacing of parking lots used for the storage, maintenance, and/or repair of any semi-truck trailer or other heavy industrial equipment. This intent of this request is an attempt to stay consistent and have all comparable businesses have the same requirements for hard surfacing, regardless of when their parking lots were constructed. Under this proposal vehicle parking lots would stay the same with hard surfacing required as it currently stands.

Surfacing requirements for parking lots, driveways, and other areas of vehicular activity are found in Section 10-27-8 of City Code, and are as follows:

10-27-8 Standards for All Parking Lots, Garages, Drive Lanes, and Driveways

All areas intended for vehicular use, including but not limited to parking lots, garages, drive lanes, and driveways shall conform to the following improvement and maintenance standards:

- A. All parking areas, drives, lanes, aisles, loading spaces and any other outdoor spaces that accommodate vehicles shall be hard surfaced with materials such as Portland Concrete Cement or Asphaltic concrete (Asphalt), and shall be maintained so as to provide a durable pavement surface free of dust, weeds, and standing water.
- B. Portland Concrete Cement or Asphaltic concrete (Asphalt) hard surfacing shall meet all the following standards and shall be constructed to have the minimum pavement structural number as follows:
 1. Areas subjected to only automobile loading: 2.5
 2. Areas subjected to truck loading: 3.0.
- C. Gravel, crushed stone, dirt, chip seal, oil, sand or other such surfacing materials shall not be permitted.
- D. Other type of types of hard surfacing, that are not specifically prohibited, which create a durable pavement surface free of dust, weeds, and standing water, may be permitted if the material and specifications are approved in advance by the City of Muscatine.

These standards for parking lot surfacing were adopted as part of the update to the Zoning ordinance which became effective in April of 2017. The parking lot surfacing standards were changed to add specificity to the type of paving that is required for parking lots, and added Section 10-27-8(D) to give property owners more flexibility in meeting surfacing requirements. Previous regulations stated parking lots, driveways, and other areas of vehicular activity “*shall be surfaced with asphalt or concrete for all weather parking.*” The original hard surfacing standards were largely adopted in order to help the area comply with federal air quality standards.

The Clean Air Act Amendments requires the Environmental Protection Agency to set National Ambient Air Quality Standards for six wide-spread pollutants. One of which is “Particulate matter,” also known as particle pollution or PM. Particulate matter is a complex mixture of extremely small particles and liquid droplets. The Muscatine area has a history of nonattainment with federal PM standards, and as such there is a long history of the City of Muscatine and local industry in taking action to bring the area back into compliance with federal particulate matter air quality standards. The requirement for the hard surfacing of parking lots was originally adopted by the City in order to help the area attain compliance with federal particulate matter air quality standards. During this period of time the City also prohibited open burning, including at the compost site, in order to reduce particulate matter pollution.

On July 14, 2011, the U.S. Environmental Protection Agency found that the Iowa State Implementation Plan (SIP) was substantially inadequate to maintain the 2006 24-hour National Air Quality Standard for fine particulate matter in Muscatine County, Iowa. The Iowa Department of Natural Resources determined that three major sources of air pollution in the Muscatine area significantly contribute to predicted (modeled) PM_{2.5} exceedances of the standard in the vicinity of the Garfield School monitor. In response the Iowa Department of Natural Resources collaborated with these facilities to develop air pollution control measures to bring Muscatine back into compliance with air quality standards for fine particulate matter. In 2014 the EPA signed off on these measures when it approved a new State Implementation Plan for fine particulate matter.

Measures taken under the new SIP at these facilities generally included various combinations of the following: installation of new particulate controls or improvements to existing particulate controls on a number of sources; cessation of operation of various existing equipment; replacement of several existing operations with new, more efficient equipment; **regular sweeping and watering of road surfaces**; increasing select stack heights; and restricting operation of certain processes. At the time this amendment to the SIP was adopted the requirement for all new roads and parking areas to be hard surfaced was in place, however the specific requirement for mandatory regular sweeping and water of road surfaces at these three facilities highlights the significance of road and parking lot surfaces to air quality.

A number of parking lots within the City do not meet current surfacing standards. The vast majority of these non-paved parking lots qualify as legal non-conforming structures (grandfathered) under City Code. All these parking lots were constructed prior to the City

adoption of a requirement for the hard surfacing of parking lots, and such so they are allowed to remain unpaved so long as they remain in use as parking lots.

Regulations regarding "grandfathering" as it relates to the Zoning Ordinance, are contained within Chapter 24 of Title 10. This chapter does not directly mention parking lots or driveways; however it does cover the nonconforming use of "structures", a term which as defined in zoning ordinance, does include parking lots and driveways. The key portion of Chapter 24 as it relates to existing non-paved parking lots is Section 5, which states: *"If a nonconforming building, structure, or use is abandoned for one year after the adoption of this Ordinance, it shall not return to its nonconforming state, but must be brought into conformity with the regulations of the district in which it is located."* It should be noted that non-conforming parking lots cannot be expanded, that if they are expanded all new parking and vehicle operations areas must be constructed in accordance with current City hard surfacing regulations.

It is the recommendation of Councilman Saucedo that the hard-surfacing regulations as currently written creates an inequitable situation where business that operate in location containing legal non-conforming non-paved parking lots have an advantage over businesses which have had to hard surface all parking lots since they first opened. It was the consensus of the City Council that recommendation of Planning and Zoning Commission on this request be obtained prior to any additional City Council discussion or action on this request.

The Planning and Zoning Commission can recommend one of the following actions in response to this request:

- Take action to recommend approval or denial of this request to change in City Code to exempt M-1, M-2, and C-1 zoned parcels from the present requirement for the hard surfacing of parking lots used for the storage, maintenance, and or repair of any semi-truck trailer or other heavy industrial equipment.
- Make an alternate recommended change to hard surfacing regulations
- Request additional background information and continue this discussion to the January meeting
- Continue this discussion to a future meeting

Staff recommends that no changes to the hard-surfacing requirements be made as they are a critical component of the community's efforts to comply with federal quality standards. Additionally, many land owners have already made significant investments in complying with these standards. However, should the Commission wish to recommend any change to current standards for hard surfacing that following additional issues be considered in addition to the suggested change that was referred to the Commission by City Council.

1. What is the end of objective of parking surface regulations?

Currently City Code mandates a hard surface that provides a durable pavement surface free of dust, weeds, and standing water. *City Code Section (10-27-8(A))*

2. Should all areas upon which vehicles operate be subject to the same standards?

Currently City Code mandates that area subject to automobile loading be built in a manner that have structural number of 2.5, and those subject to truck loading have a structural number of 3. *City Code Section (10-27-8(B))*. Is there a desire to treat different land uses and zoning classifications differently? Should areas being used for vehicle storage and very intermittent use have different standards? Should residential driveways be held to the same, higher, or lower standards?

3. Should certain types of surfacing materials and methods be prohibited?

Currently City Code prohibits gravel, crushed stone, chip seal, oil, and sand. *City Code Section (10-27-8(C))*.

4. What should the approval process be for non-concrete or asphalt surfaces.

Currently City Code states "Other type of types of hard surfacing, that are not specifically prohibited, which create a durable pavement surface free of dust, weeds, and standing water, may be permitted if the material and specifications are approved in advance by the City of Muscatine." *City Code Section (10-27-8(D))*.

5. Should permits be required for the construction of a parking lot

Currently City Code does not require a permit to be pulled for the construction of a parking lot. However, City Code does require that parking lots, aside from those qualified as grandfather, meet all the standards contained in City Code Section 10-27-8. Parking lot design is reviewed as part of the site plan review process; however, the site plan review process is only triggered by the construction or expansion by 50% or a non-residential or multi-family residential building. City staff dose only a regular basis do courtesy reviews for compliance with City of parking lot plans for projects not triggering the requirement for a formal site plan review

6. Should permits be required for the resurfacing of an existing parking lot?

Currently City Code does not require a permit to be pulled for the resurfacing of a parking lot. However, City Code does require that parking lots, aside from those qualified as grandfather, meet all the standards contained in City Code Section 10-27-8.

7. How should parking lots built prior to requirements (grandfathering) for hard surfacing be regulated?

Currently City Code allows for parking lots built prior to the effective date of the hard-surfacing requirement to lawfully be continued to use and maintain as originally built, so long as the use of them for parking has not been abandoned for a period time longer than a year. While they can be maintained repaired as is, they cannot be expanded. City Code Section 10-24-5.

8. Should there be certain operational standards for grandfathered non-hard surfaced parking lots.

City Code is currently silent on this issue. Is the desire for some standards to dust control, a requirement to be weed/vegetation free, etc?. Other portions of City Code already do prohibit standing water on all parking lots, regardless of the date of construction.