



## MEMO

To Mayor and City Council  
Kathy Laur, City Administrator  
From Andrew Biggerstaff, City Attorney  
Date April 14, 2020  
Re Ordinance Number 20-08 – An Ordinance Amending Chapter 10

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Ordinance Number 20-08 proposes to make several changes to existing provisions of Chapter 10 of the Tonka Bay Zoning Code. Those changes are outlined below.

**Sections 1, 2, and 3.** These sections of the Ordinance update statutory cross references and correct typographical errors that exist in the current city code.

**Sections 3 through 7.** These sections make identical changes in several sections of the existing Zoning Code. In several existing zoning districts, the City regulates the allowed floor area ratio for structures. Historically, if a property owner desired to exceed the stated maximums, the Zoning Code required the applicant to obtain a conditional use permit.

Floor area ratio is not generally considered a “use” within the zoning context, and therefore a conditional use permit is not a tool that would generally be used to authorize a deviation from the standards prescribed by each section of the Code. If Ordinance Number 20-08 is adopted, the language requiring a conditional use permit will be stricken from each of these sections. Upon the effective date of these changes, any applicant seeking to exceed the maximum floor area ratios prescribed by the Code will be required to obtain a variance, in accordance with Minnesota Statutes, Section 462.357, subd. 6 and relevant portions of the City Code.

It is worth noting that Ordinance Number 20-08 does not seek to change the maximum FAR allowed on any property within the City, but instead intends to modify the process by which an applicant would seek approval of a deviation from those maximums.

### Staff Recommendations

Hold the required public hearing and consider any information presented.

### Council Action Required

Review and approve the proposed ordinance amendment.

Proposed Motion – “I move that we waive second reading and adopt Ordinance Number 20-08, an ordinance amending Chapter 10 of the City’s zoning code.”