

## Section 10: Conditional Use Permits

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**10.01 Purpose.** The purpose of a Conditional Use Permit (CUP), is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the public health, safety, and general welfare. In making the determination whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises or on any adjoining roads, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the public health, safety, and general welfare.

**10.02 Initiation of Proceedings.** Pursuant to Minnesota Statutes Section 15.99, as may be amended, an application for a Conditional Use Permit shall be approved or denied within 60 days from the date of its official and complete submittal unless extended pursuant to Statute or a time waiver is granted by the applicant. Additional City requirements are listed below.

**10.03 Application.** Requests for Conditional Use Permits, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by City Council Resolution. This fee shall not be refunded. Such application shall also be accompanied by 12 copies of detailed written and graphic materials fully explaining the proposed change, development, or use.

**10.04 Staff Review/Technical Assistance Reports.** Upon receipt of an application for a

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Conditional Use Permit, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council.

**10.05 Public Notice and Hearing.** Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next regularly scheduled Planning Commission meeting occurring at least 21 days from such date. The Zoning Administrator shall also cause notice of the public hearing containing a description of the property and description of the request, to be published no more than 30 days and no less than 10 days prior to the hearing. Written notification of the hearing shall also be mailed at least 10 working days prior to the date of the hearing to all owners of land within 350 feet of the boundary of the property in question for Conditional Use Permits and 350 feet for amendments. Failure of a property owner to receive said notice shall not invalidate any such proceeding as set forth within this Ordinance provided a bona fide attempt to comply with this provision has been made.

**10.06 Planning Commission Action.** The Planning Commission shall conduct the public hearing at which time the applicant, or a representative thereof, shall appear to answer questions concerning the proposed request.

**Subd. 1.** The Planning Commission shall consider possible adverse effects of the proposed conditional use. Its judgment shall be based upon (but not limited to) the following factors:

- A. The proposed action has been considered in relation to the specific policies and provisions of and is consistent with the official Comprehensive Plan.
- B. The proposed use is or will be compatible with present and future land uses of the area.
- C. The proposed use conforms with all performance standards contained within this Ordinance.
- D. The proposed use will not have an adverse effect (including traffic generation, noise, glare, or other nuisance characteristics) upon the area in which it is proposed.
- E. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

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- F. The proposed action meets the purpose and intent of this Ordinance and the intent of the underlying zoning district.
- G. There is an adequate buffer yard or transition provided between potentially incompatible uses or districts.
- H. Traffic generation by the proposed use is within capabilities of streets serving the property.

**Subd. 2.** The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense, of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.

**Subd. 3.** The Planning Commission shall hold the public hearing, shall study the application to determine possible adverse effects of the proposed use and to determine what additional requirements may be necessary to reduce such adverse effects, shall make findings of fact, and shall recommend one of three actions - approval, denial, or conditional approval. The matter may be tabled to allow additional time to consider the request.

Provided that the time to act on the request has been extended pursuant to statute, the Planning Commission shall within 60 days after the public hearing, transmit its recommendation to the City Council for its official action.

**10.07 City Council Action.** The Planning Commission's recommendation shall be conveyed to the City Council. The City Council shall review and comment on the request in relation to the Comprehensive Plan, Airport Zoning Ordinance, Official Map, and this Ordinance. Action may be taken at that time or the matter may be tabled to allow further time for review and consideration.

**10.08 Reconsideration.** Whenever an application for a Conditional Use Permit has been considered and denied by the Council, a similar application for the Conditional Use Permit affecting substantially the same property shall not be considered again by the Planning Commission or Council for at least six months from the date of its denial, unless a decision to reconsider such matter is made by not less than four-fifths vote of the full Council.

**10.09 Conditions.**

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- Subd. 1.** In permitting a new conditional use or the alteration of an existing conditional use, the City Council may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which the City Council considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to the following:
- A. Increasing the required lot size or setback dimension.
  - B. Limiting the height, size, or location of buildings.
  - C. Controlling the location and number of vehicle access points (ingress and egress) to the property and proposed structures with particular references to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
  - D. Increasing the street width, turnlanes, or other safety improvements.
  - E. Regulating off-street parking (including number of spaces) and loading areas where required.
  - F. Utilities with reference to location availability and compatibility.
  - G. Limiting the number, size, location, or lighting of signs.
  - H. Berming, fencing, screening, landscaping, or other means to protect nearby property.
  - I. Compatibility of appearance.
  - J. Hours and days of operation.

In determining such conditions, special consideration shall be given to protecting immediately adjacent properties from objectionable views, noise, traffic, and other negative characteristics associated with such uses.

The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the use, location, and conditions imposed by the City Council; limits, review dates, and such other information as may be appropriate.

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**10.10 Information Required.** The information required for all Conditional Use Permit applications may consist of the following items, and shall be submitted when requested by the City.

- Subd. 1.** Site Development Plan.
- A. Location of all buildings on lots including both existing and proposed structures.
  - B. Location of all adjacent buildings located within 350 feet of the exterior boundaries of the property in question.
  - C. Location and number of existing and proposed parking spaces.
  - D. Vehicular circulation.
  - E. Architectural elevations (type and materials used in all external surface.)
  - F. Location and type of all proposed lights.
  - G. Curb cuts, driveways, and number of parking spaces.
- Subd. 2.** Dimension Plan.
- A. Lot dimensions and area.
  - B. Dimensions of proposed and existing structures.
  - C. "Typical" floor plan and "typical" room plan.
  - D. Setbacks of all buildings located on property in question.
  - E. Proposed setbacks.
  - G. Sanitary sewer and water plan with estimated use per day.
- Subd. 3.** Grading Plan.
- A. Existing contour.
  - B. Proposed grading elevations.
  - C. Drainage configuration.

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- D. Storm sewer catch basins and invert elevations.
- E. Spot elevations.
- F. Proposed road profile.

### **Subd. 4.** Landscape Plan.

- A. Location of all existing trees, type, diameter, and which trees will be removed.
- B. Location, type, and diameter of all proposed plantings.
- C. Location and material used of all screening devices.

### **Subd. 5.** Legal description of property under consideration.

### **Subd. 6.** Proof of ownership of the land for which a conditional use permit is requested.

## **10.11 Lapse of Conditional Use Permit by Non-Use.**

**Subd. 1.** Whenever within one year after granting a Conditional Use Permit, the use as permitted by the permit shall not have been completed or utilized, then such permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original Conditional Use Permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use allowed in the Conditional Use Permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

## **10.12 Financial Assurance or Surety.**

**Subd. 1.** Where deemed necessary by the City, upon approval of a Conditional Use Permit, the City shall be provided, with a surety bond, cash escrow, letter of credit, certificate of deposit, securities, or cash deposit prior to the issuance of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancellable and shall guarantee conformance

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and compliance with the conditions of the Conditional Use Permit and this Ordinance.

- Subd. 2.** The security shall be in the amount equal to 125 percent of the City Engineer's or Building Official's estimated costs of labor and materials for the proposed improvements or development. Said project can be handled in stages upon the discretion of the City Engineer and Building Official.
- Subd. 3.** The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the Conditional Use Permit and Ordinance provisions has been issued by the Building Official.
- Subd. 4.** Failure to comply with the conditions of the Conditional Use Permit or this Ordinance shall result in forfeiture of the security.
- Subd. 5.** Whenever a financial guarantee is imposed by the City, the applicant shall be required to enter into a performance agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the permit. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

**10.13 Permit Modifications.** Holders of a Conditional Use Permit may propose modifications to the permit at any time. No changes in the approved plans or scope of the conditional use shall, however, be undertaken without prior approval of those changes by the City by following the procedures for issuance of a conditional use permit as outlined in this section.

**10.14 Revocation.** The Planning Commission may recommend, and the City Council may direct, the revocation of any Conditional Use Permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of this Ordinance, City Code, or other applicable regulations. The City Council or Planning Commission shall initiate a revocation proceeding and the Zoning Administrator shall notify the property owner that they have an opportunity to show cause why the permit should not be revoked. The revocation shall be processed and considered pursuant to the procedure set forth for processing Conditional Use Permits by this Section. The Zoning Administrator shall provide the property owner with a copy of the proceedings and findings of the Planning Commission and City Council.

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### 10.15 Filing CUP with Wright County.

**Subd. 1.** Filing Requirement. A certified copy of all Conditional Use Permits shall be filed with the office of the Wright County Recorder pursuant to Minnesota Statutes. The applicant shall have the responsibility of filing the Conditional Use Permits with Wright County and paying all costs for such recording. A copy of the recorded Conditional Use Permit or other documentation from Wright County listing the document number, recording date and appropriate signatures, shall be delivered to the Zoning Administrator as evidence of satisfying this requirement. A building permit for the subject construction shall not be issued until proof of recording has been provided to the City Administrator.

**10.16 Inspection.** The City hereby reserves the right upon issuing any Conditional Use Permit to inspect the premises to ensure compliance with the provisions of this Ordinance or any conditions additionally imposed.