

§ 150.19 AMENDMENTS AND CONDITIONAL USE PERMITS.

(A) Procedure.

(1) *Application.* Requests for amendments or conditional use permits, as provided within this chapter, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by the City Council resolution. This fee shall not be refunded. Such application shall also be accompanied by a detailed written and graphic materials and site map necessary to fully explain the proposed change, development, or use.

(2) *Staff review/technical assistance reports.* Upon receipt of an application for an amendment or conditional use permit, the Zoning Administrator shall review, and when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. If more information is required, the applicant will be notified in writing from the city of the additional information needed. When all informational requirements have been complied with, the request shall be considered officially submitted. 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.

(3) *Public hearing.* Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next Planning Commission meeting and have the hearing published in the official newspaper. Such notice shall contain a legal property description and description of the request and shall be published no less than ten days prior to the hearing. Written notification of the hearing shall also be mailed at least ten days prior to the date of the hearing to all owners of land within 350 feet of the boundary of the property in question, unless it is a city-wide text amendment, and to the Minnesota Department of Natural Resources if in Shoreland. Failure of a property owner to receive said notice shall not invalidate any such proceedings provided a bona fide effort by the city has been made and documented.

(4) *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.

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

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official city comprehensive plan;
2. The proposed use is or will be compatible with present and future land uses of the area.
3. The proposed use conforms with all standards contained herein.
4. The proposed use will not tend to or actually depreciate the area in which it is proposed.
5. The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.

(b) The Planning Commission shall have the authority to request additional information from the applicant information from the applicant concerning operational factor or to retain expert testimony with the consent and at the expense of the applicant.

(c) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the chapter. Such recommendation shall be in writing and accompanied by any report and recommendation of the city staff. The written recommendation of the Planning Commission shall be forwarded by the Zoning Administrator for consideration by the City Council.

(5) *City Council action.* Upon receiving the request and any report and recommendation of the Planning Commission and the city staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact.

(a) Approval of a request shall require passage by a four-fifths vote of the City Council.

(b) Whenever an application for an amendment or conditional use permit has been considered and denied by the City Council, a similar application for the amendment or conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or Council for an additional six months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths vote of the full City Council.

(c) Written notification of the City Council's decision regarding the conditional use or amendment request shall be mailed to the applicant (and the Minnesota Department of Natural Resources if in Shoreland) within ten days of the date of the action.

(B) *Amendments.*

(1) *Initiation.* The City Council or Planning Commission may, upon its own motion initiate a request to amend the text or the district boundaries of this chapter. Any person, owning real estate within the city may initiate a request to amend the district boundaries or text of this chapter so as to affect the real estate.

(2) Amendments shall not become effective until after the ordinance is published in the official newspaper.

(C) *Conditional use permit.*

(1) *Purpose.* The purpose of a conditional use permit is to provide the city with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the city may consider the nature of the adjoining land or buildings, whether or not a similar use is already in existence and located on the same premises or on other lands immediately close by, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or future factors as the city shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

(2) *Council may impose conditions.* The Council may impose any condition it considers necessary to protect the public health, safety and welfare. These may include, but are not limited to: screening, additional setback for buffer, hours of operation, landscaping, service roads to limit access

points, (lighting, limits on vegetation removal, erosion, control parking, outside appearance and storage).

(3) *Lapse of a conditional use permit by non-use.* 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 a extension of time in which to complete or utilize the use that has been granted by the City Council. The 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 permitted 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.
(Ord. passed 6-3-1997)