

§ 153.189 CONDITIONAL USE PERMIT.

(A) General. Whenever this chapter requires a conditional use permit, an application therefor in writing shall be filed with the City Clerk. Refer to the R-1, R-2, and the like sections for eligible permits.

(B) 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 and to require conditions related to the establishment of said use necessary to carry out the intent and purposes of the title. In make this 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 general welfare, public health and safety.

(1) Application and procedure. Pursuant to M.S. § 15.99, an application for a conditional use permit shall be approved or denied within 60 days from the date of its official and complete submission unless extended by the city pursuant to statute or a time waiver is granted by the applicant. Additional city requirements are as follows:

(a) A pre-application meeting may be required by city staff at which the appropriate application procedures, requirements, and applicable provisions relating to the request will be reviewed and explained.

(b) Request for conditional use permit, as provided in this title, shall be filed with the City Clerk on an official application form. Unless modified by the City Clerk, such application shall be accompanied by a fee as set forth in the current city fee schedule. Such application shall also be accompanied by 15 copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a list of property owners located within 350 feet of the subject property. Said listing shall be obtained from and certified by the Chisago County Assessor's Office. The request shall be considered as being officially submitted when all the information requirements are satisfied. In cases where an application is judged to be incomplete, the City Clerk shall notify the applicant, in writing, within 10 days of the date of submission.

(c) Upon receipt of said application, the City Clerk shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description, description of request and property location, and be published in the official newspaper at least 10 days prior to the hearing. Written notification of said hearing shall be mailed at least 10 days prior to all owners of land within 350 feet of the boundary of the property in question.

(d) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this section.

(e) The City Clerk shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.

(f) The Planning Commission shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to reduce any adverse effects, and shall make a recommendation to the City Council within the guidelines as mandated by state statutes. At a minimum, the Planning Commission, in its judgment, shall consider at a minimum the following standards as it would apply to the particular use at the proposed location.

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 performance standards contained in the city code.

4. The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.

5. Traffic generation by the proposed use is within capabilities of streets serving the property.

(g) 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. This information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this title. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

(h) The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this title. The recommendation shall be in writing and accompanied by the report and recommendation of the city staff, and shall be entered in and made part of the permanent written record of the City Council meeting.

(i) The City Council shall not grant a conditional use permit until the Planning Commission has held a public hearing on the request. The City Council shall act upon the conditional use permit within 60 days from the date of submission of a complete application, unless an extension has been provided, pursuant to M.S. § 15.99.

(j) Upon receiving the 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, shall make recorded findings of fact and may impose any condition it considers necessary to protect the public health, safety and welfare.

(k) Subject to limitations of M.S. § 15.99, if, upon receiving the report and recommendations of the Planning Commission and city staff, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council may differ from that of the Planning Commission, the City Council may, before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

(l) Approval of a request shall require passage by a majority vote of the City Council.

(m) The City Clerk shall keep a record of applications and conditional use permits. A certified copy of any approved conditional use permit shall be filed with the County Recorder.

(n) Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for the conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least 6 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 City Council for an additional 6 months from the date of the second denial unless a decision to reconsider such matter is made by not less than 2/3 vote of the full City Council.

(2) Information requirement. The information required for all conditional use permit applications shall be as specified in § 153.192 (Information Requirement) of this chapter.

(3) General performance standards. As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include conditions which are considered necessary to meet the performance standards and criteria of this title and to protect the best interests of the surrounding area or the city as a whole. The general performance standards and criteria may include but are not limited to the following:

(a) The use and the site in question shall be served by a street of sufficient capacity to accommodate the type and volume of traffic which would be generated and adequate right-of-way shall be provided.

(b) The site design for access and parking shall minimize internal as well as external traffic conflicts and shall be in compliance with this section.

(c) If applicable, a pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.

(d) Adequate off-street parking and off-street loading shall be provided in compliance with this section.

(e) Loading areas and drive-thru facilities shall be positioned so as to minimize internal site access problems and maneuvering conflicts, to avoid visual or noise impacts on any "adjacent" residential use or district, and provided in compliance with this section.

(f) Whenever a nonresidential use "is adjacent to" a residential use or district, a buffer area with screening and landscaping shall be provided in compliance with this section.

(g) General site screening and landscaping shall be provided in compliance with this section.

(h) All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses or districts, and shall be in compliance with this section.

(i) Potential exterior noise and odor generated by the use shall be identified and mitigation measures as may be necessary shall be imposed to ensure compliance with Chapters 95 and 153 of the city code.

(j) The site drainage system as well as availability and compatibility of utilities shall be subject to the review and approval of the City Engineer.

(k) The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and area so as to cause a blighting influence. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment in accordance with this section.

(l) Provisions shall be made for daily litter control, an interior location for recycling, and trash handling and storage or an outdoor, enclosed receptacle area shall be provided in compliance with this section.

(m) All signs and informational or visual communication devices shall be in compliance with this section.

(n) The use and site shall be in compliance with any federal, state or county law or regulation that is applicable and any related permits shall be obtained and documented to the city.

(o) Any applicable business licenses mandated by this code are approved and obtained.

(p) The hours of operation may be restricted when there is judged to be an incompatibility with a residential use or district.

(q) The use complies with all applicable performance standards of the zoning district in which it is located and where applicable, any non-conformity shall be eliminated.

(r) All additional conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general

welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.

(4) Enforcement. Enforcement of the provisions of this section shall be in accordance with this section. The city reserves the right upon issuing any conditional use permits to inspect the premises to ensure compliance with the provisions of this section or any conditions additionally imposed. Violation of an issued permit or of the provisions of this section shall be grounds for revocation and denial of future permit applications or modifications.

(5) 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 title, city codes, or other applicable regulations. The City Council or Planning Commission shall initiate an application and the City Clerk shall notify the responsible person that they have an opportunity to show why the permit should not be revoked. The application shall be processed and considered pursuant to this section. The City Clerk shall provide the responsible person a copy of the proceedings and findings of the Planning Commission and City Council.

(6) 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 Council. Conditional use permit modifications may include, but shall not be limited to, hours of operation, number of employees, expansion of structures and/or premises, operational modifications resulting in increased traffic, and the like. Permit modifications shall be further subject to and processed according to this section and shall be subject to all requirements and standards of this section.

(7) Expiration. Unless the City Council specifically approves a different time when action is officially taken on the request, conditional use permits which have been issued under the provisions of this section shall expire without further action by the Planning Commission or the City Council within 1 year of the date of approval unless the applicant has substantially commenced the authorized use or improvement, or unless within 30 days prior to the expiration of the conditional use permit the applicant has petitioned for a time extension by completing and submitting a request for an extension, including the renewal fee as established by City Council resolution. Such extension request shall be submitted in writing and shall state facts showing a good faith attempt to complete or utilize the approval permitted in the conditional use permit. A request for an extension not exceeding 1 year shall be subject to the review and approval of the City Council. Should a second extension of time or any extension of time longer than 1 year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the City Council for a decision. If the use for which a conditional use permit is issued is discontinued for a period of 1 year, the conditional use permit shall automatically lapse without further action of the City Council.

(8) Site improvement performance agreement and financial guarantee. Prior to City Council consideration of a conditional use permit request, the applicant, as may be applicable, shall guarantee to the city the completion of all improvements as shown on the approved site plan and as required by the conditional use permit approval. The guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as specified in this chapter.

(9) Certification of taxes paid. Prior to approving an application for a conditional use permit, the applicant shall provide certification to the city that there are no delinquent property taxes, special assessments, interest, or city utility fees due upon the parcel of land to which the conditional use permit application relates.

(10) Shoreland Management Overlay District. The Commission of the Department of Natural Resources or its assigned agent shall be notified in writing and said notice shall be postmarked at least 10 days in advance of the public hearing of any request of a conditional use permit included within the Shoreland Management Area. Notice of final action for any of the applications identified above shall be sent to the Commissioner of the Department of Natural Resources and postmarked within 10 days of final action.

(C) Referral to Planning Commission. The application and related file shall be referred to the Planning Commission for study concerning the effect of the proposed use on the Comprehensive Plan and on the character and development of the neighborhood.

(D) Public hearing. Within 30 days after filing a complete application, a date shall be set for a public hearing thereon by the Planning Commission. Notice of any such hearing shall be mailed not less than 10 days before the date of the hearing to the applicant and to each property owner situated wholly or in part within 350 feet of the property to which the conditional use permit relates, insofar as the names and addresses can be determined from the Clerk from records available to the public. The Planning Commission shall transmit the findings to the Council within 60 days from the date of filing the application.

(E) Action by Council.

(1) The Council shall consider the advice and recommendation of the Planning Commission and the effects of due proposed use upon the health, safety, and welfare of the city and of the occupants of the immediate neighborhood. Should the Council find that the proposed use when conducted under the specified conditions will be detrimental to the health, safety, or general welfare, they may grant a conditional use permit specifying the conditions for location and use requested. The Council may also attach additional conditions as deemed necessary to the permit, to reflect any conditions peculiar to the site in question.

(2) Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of such permit and of any conditions designated in connection therewith.

(3) A periodic review of the permit and its conditions shall be maintained. The permit shall be issued for a particular user and not for a particular person or firm.

(F) Termination of permit. A violation of any condition set forth in a conditional use permit shall be a violation of this chapter and automatically terminate the permit. A conditional use permit issued hereunder shall become void 1 year after it was granted unless made use of.

(G) Fees. Any person filing an application for a conditional use permit shall pay a conditional use permit application fee and a conditional use permit city cost reimbursement deposit as set forth in the city fee schedule before the application is deemed filed with the city and before any work on the application may commence. The application fee is payable at the time the application is filed with the City Clerk and is not refundable. The city cost reimbursement deposit is also payable at the time the application is filed with the City Clerk and is refundable only in the amount of the deposit which exceeds the costs incurred by the city related to the application. As city costs, the applicant shall pay all engineering, technical, legal, and administrative costs incurred by the city in processing and reviewing the application. The applicant shall execute a written agreement in a form approved by the City Attorney requiring the applicant to reimburse the city for all city costs identified in this division (G).

(Prior Code, § 908.05) (Am. Ord. 119, passed 11-12-1997; Am. Ord. 2001-6-1, passed - - 2001; Am. Ord. 2007-1-3, passed 1-9-2007; Am. Ord. 2012-9-1, passed 9-11-2012; Am. Ord. 2018-9-5, passed 9-11-2018; Am. Ord. 2020-11-1, passed 11-10-2020)

§ 153.190 INTERIM USE PERMIT.

(A) Purpose and intent. The purpose and intent of allowing interim use permits is:

(1) To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction.

(2) To allow a use that is presently judged acceptable to the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.

(3) To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

(B) Application and procedure. Uses defined as “interim uses” shall be processed according to the standards and procedures for a conditional use permit as established by this section.

(C) Information requirement. The information required for all interim use permit applications shall be as specified in § 153.192 (Information Requirement) of this chapter.

(D) General standards. An interim use shall comply with the following:

(1) The use will conform to the applicable general performance standards of this section.

(2) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety, and general welfare.

(3) The proposed use will not create an excessive burden on parks, streets, and other public facilities.

(4) The date or event that will terminate the use can be identified with certainty.

(5) The use will not impose additional unreasonable costs to the public.

(6) The user agrees to any conditions that the City Council deems appropriate for permission of the use.

(E) Enforcement. Enforcement of the provisions of this section shall be in accordance with this section. The city reserves the right upon issuing any interim use permits to inspect the premises to ensure compliance with the provisions of this section or any conditions additionally imposed. Violation of an issued permit of the provisions of this section shall be grounds for termination of the interim use permit.

(F) Termination. An interim use shall terminate on the happening of any of the following events, whichever occurs first:

(1) The date or event stated in the permit, but in no case more than 5 years from the date of approval of the permit.

(2) Upon violation of conditions under which the permit was issued.

(3) Upon change in the city's zoning regulations rendering the use nonconforming.

(G) Expiration. Unless the City Council specifically approves a different time when action is officially taken on the request, interim use permits which have been issued under the provisions of this section shall expire without further action by the Planning Commission or the City Council within 1 year of the date of approval unless the applicant has substantially commenced the authorized use or improvement, or unless within 30 days prior to the expiration of the interim use permit the applicant has petitioned for a time extension by completing and submitting a request for an extension, including the renewal fee as established by City Council resolution. Such extension request shall be submitted in writing and shall state facts showing a good faith attempt to complete or utilize the approval permitted in the interim use permit. A request for an extension not exceeding 1 year shall be subject to the review and approval of the City Council. Should a second extension of time of any extension of time longer than 1 year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

(H) Site improvement performance agreement and financial guarantee. Following the approval of an interim use permit as required by this section and prior to the issuing of any building permits or the commencing of any work, the applicant, as may be applicable, shall

guarantee to the city the completion of all improvements as shown on the approved site plan and as required by the interim use permit approval. The guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as specified in this chapter (Site Performance Agreement).

(I) Certification of taxes paid. Prior to approving an application for an interim use permit, the applicant shall provide certification to the city that there are no delinquent property taxes, special assessments, interest, or city utility fees due upon the parcel of land to which the interim use permit application relates.

(J) Shoreland Management Overlay District. The Commission of the Department of Natural Resources or its assigned agent shall be notified in writing and said notice shall be postmarked at least 10 days in advance of the public hearing of any request of an interim use permit included within the Shoreland Management Overlay District. Notice of final action for any of the applications identified above shall be sent to the Commissioner of the Department of Natural Resources and postmarked within 10 days of final action.

(Ord. 2009-5-1, passed 5-12-2009; Am. Ord. 2012-9-1, passed 9-11-2012; Am. Ord. 2016-11-2, passed 11-9-2016)