

CHAPTER 25: ZONING

ARTICLE 3. ZONING ADMINISTRATION

Sec. 25-3-100 Power Given to the City Council.

The Council may on its own motion, or on request of the Planning Commission, or on petition of the affected property owners:

- (a) Change the zoning of a parcel of land from one classification to another.
- (b) Change any of the regulations of this Ordinance as to the use or platting of land in any district, or as to the restrictions upon buildings or structures therein, by amendment to this Ordinance.
- (c) Hear and decide appeals by any person affected by any alleged error in any order, requirement, decision, or determination made by any administrative officer in the enforcement of this Zoning Ordinance according to Sec. 25-3-1200 and Sec. 25-3-1300.
- (d) Hear requests for variances from the literal provisions of this Ordinance in instances where their strict enforcement would cause practical difficulties, and to grant such variances only when it is demonstrated that such actions will be in keeping with the purposes and intent of this Chapter and with the Comprehensive Plan.
- (e) Establish or amend by resolution a schedule of fees.

Sec 25-3-200 Administration.

The Community Development Director shall be responsible for the administration and enforcement of this ordinance. The Community Development Director shall create and maintain such systems of records and files and establish such administrative procedures as are necessary to promote the efficient administration of this ordinance. The Community Development Director may designate such additional persons as may be necessary or convenient to administer and enforce this ordinance. Any person aggrieved by any procedure or decision of the Community Development Director may appeal to the Planning Commission in accordance with the procedures outlined in Sec. 25-3-1200. The decision of the Planning Commission regarding any decision first made by the Community Development Director may be appealed to the City Council in accordance with the procedures outlined in Sec. 25-3-1300 of this ordinance.

Sec. 25-3-300 Procedure; Comprehensive Plan Text Amendment.

- (a) **Initiation.** A comprehensive plan text amendment means a change in all or part of the text of the adopted comprehensive plan. An amendment may be initiated by:
 - (1) The City Council;
 - (2) The Planning Commission;

- (3) A property owner.
- (b) **Application.** An application must be made on the application form provided by the City. The following items must be submitted to the Community Development Director at least 30 days before the Planning Commission public hearing:
 - (1) A complete application; and
 - (2) The application fee.
- (c) **Public Hearing Notice.** No comprehensive plan text amendment shall be adopted until the Planning Commission has held a public hearing. The Community Development Director shall set the date for the public hearing. The notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the city at least 10 days before the day of the hearing.
- (d) **Planning Commission.** A comprehensive plan text amendment shall be referred to the Planning Commission to review the application, hold the public hearing, and provide a recommendation to the City Council.
- (e) **City Council.** Except for amendments to permit affordable housing development as defined in Minnesota Statutes §462.355, Subd. 3, a resolution to amend the comprehensive plan must be approved by a two-thirds vote of the City Council's members. Amendments to permit an affordable housing development are approved by a simple majority of all of the members of the City Council
- (f) **Effective Date.** Any amendment to the Comprehensive Plan adopted by the City Council shall be effective upon adoption.

Sec. 25-3-400. Procedure; Comprehensive Plan Map Amendment.

- (a) **Initiation.** A comprehensive plan map amendment means a change in all or part of the existing future land use designation of a parcel in the adopted comprehensive plan. An amendment may be initiated by:
 - (1) The City Council;
 - (2) The Planning Commission;
 - (3) A property owner.
- (b) **Application.** An application must be made on the application form provided by the City. The following items must be submitted to the Community Development Director at least 30 days before the Planning Commission public hearing:
 - (1) A complete application; and

- (2) The application fee.
- (c) **Public Hearing Notice.** No amendment shall be adopted until the Planning Commission has held a public hearing. The Community Development Director shall set the date for the public hearing. The notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the city at least 10 days before the date of the hearing. A similar notice shall be mailed at least 10 days before the day of the public hearing to each owner of affected property and property situated wholly or partly within 500 feet of the property to which the amendment relates. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the notice requirements has been made.
- (d) **Planning Commission.** A comprehensive plan map amendment shall be referred to the Planning Commission to review the application, hold the public hearing, and provide a recommendation to the City Council.
- (e) **City Council.** Except for amendments to permit affordable housing development as defined in Minnesota Statutes §462.355, Subd. 3, a resolution to amend the comprehensive plan must be approved by a two-thirds vote of the City Council's members. Amendments to permit an affordable housing development are approved by a simple majority of all of the members of the City Council.
- (f) **Effective Date.** Any amendment to the Comprehensive Plan Future Land Use Map adopted by the City Council shall be effective upon adoption.

Sec. 25-3-500 Procedure; Zoning Ordinance Text Amendment.

- (a) **Initiation.** A text amendment means, but is not limited to, changes in uses, setbacks, heights, lot areas, definition, administration, or procedures. A text amendment to this Ordinance may be initiated by:
 - (1) The City Council;
 - (2) The Planning Commission; or
 - (3) A property owner.
- (b) **Application.** An application must be made on the application form provided by the City. The following items must be submitted to the Community Development Director at least 30 days before the Planning Commission public hearing:
 - (1) A complete application; and
 - (2) The application fee.

The City Council must approve or deny an amendment request within 60 days. This time limit begins when the Community Development Director receives a complete application and

application fee. If the Community Development Director receives an incomplete application, the 60-day limit does not begin if the Community Development Director sends a written notice within 15 business days of receipt of the incomplete application advising the applicant of the information that is missing.

- (c) **Application; Extension.** The Community Development Director may extend the time limit before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. At any time, the applicant may, by written notice to the Community Development Director, request an extension of the time limit under this section.
- (d) **Public Hearing Notice.** No amendment shall be adopted until the Planning Commission has held a public hearing. The Community Development Director shall set the date for the public hearing. The notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the city at least 10 days before the day of the hearing.
- (e) **Planning Commission.** An amendment to this Ordinance, not initiated by the Planning Commission, shall be referred to the Planning Commission for review and recommendation, and may not be acted upon by the City Council until it has received the recommendation of the Planning Commission on the proposed amendment, or until 60 days have elapsed from the date of reference of the amendment without a report by the Planning Commission.
- (f) **City Council.** The City Council may amend the text of this Ordinance by a majority vote of all its members. If the City Council denies the amendment request, it must state in writing the reasons for the denial at the time that it denies the request. If a written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the request but before the expiration of the time allowed for making the decision. The written statement must be consistent with the reasons stated in the record at the time of denial. The written response of denial or approval with conditions meet the 60-day time limit if the City can document that the response was sent within 60 days of receipt of the complete written application. No amendment request that has been denied wholly or in part shall be reconsidered for a period of 180 days from the date of the order of denial, except on grounds of new evidence or proof of change of conditions.
- (g) **Criteria for Approving a Text Amendment.** The Planning Commission and City Council shall consider possible effects of the proposed amendment. Its judgment shall be based upon, but not limited to, the following factors:
 - (1) The proposed amendment has been reviewed and found to be consistent with official comprehensive plan policies; and
 - (2) The proposed amendment can be accommodated with existing public services and will not overburden the city's service capacity.

Sec. 25-3-600 Procedure; Zoning Ordinance Map Amendment.

(a) **Initiation.** A map amendment means a change in all or part of the existing classification of a zoning district. A map amendment to this Ordinance may be initiated by:

- (1) The City Council;
- (2) The Planning Commission; or
- (3) A property owner.

(b) **Application.** An application must be made on the application form provided by the City. The following items must be submitted to the Community Development Director at least 30 days before the Planning Commission public hearing:

- (1) A complete application; and
- (2) The application fee.

The City Council must approve or deny an amendment request within 60 days. This time limit begins when the Community Development Director receives a complete application and application fee. If the Community Development Director receives an incomplete application, the 60-day limit does not begin if the Community Development Director sends a written notice within 15 business days of receipt of the incomplete application advising the applicant of the information that is missing.

(c) **Application; Extension.** The Community Development Director may extend the time limit before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. At any time, the applicant may, by written notice to the Community Development Director, request an extension of the time limit under this section.

(d) **Public Hearing Notice.** No amendment shall be adopted until the Planning Commission has held a public hearing. The Community Development Director shall set the date for the public hearing. The notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the city at least 10 days before the day of the hearing. A similar notice shall be mailed at least 10 days before the day of the public hearing to each owner of affected property and property situated wholly or partly within 500 feet of the property to which the amendment relates. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the notice requirements has been made.

(e) **Planning Commission.** An amendment, not initiated by the Planning Commission, shall be referred to the Planning Commission for review and recommendation, and may not be acted upon by the City Council until it has received the recommendation of the Planning Commission on the proposed amendment, or until 60 days have elapsed from the date of reference of the amendment without a report by the planning agency.

- (f) **City Council.** The City Council may amend the map by a majority vote of all its members. An amendment that changes all or part of the existing classification of a zoning district from residential to commercial or industrial requires a two-thirds majority vote of all City Council members. If the City Council denies the amendment request, it must state in writing the reasons for the denial at the time that it denies the request. If a written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the request but before the expiration of the time allowed for making the decision. The written statement must be consistent with the reasons stated in the record at the time of denial. The written response of denial or approval with conditions meet the 60-day time limit if the City can document that the response was sent within 60 days of receipt of the complete written application. No amendment request that has been denied wholly or in part shall be reconsidered for a period of 180 days from the date of the order of denial, except on grounds of new evidence or proof of change of conditions.
- (g) **Criteria for Approving a Map Amendment.** The Planning Commission and City Council shall consider possible effects of the proposed amendment. Its judgment shall be based upon, but not limited to, the following factors:
- (1) The proposed amendment has been reviewed and found to be consistent with official comprehensive plan policies; and
 - (2) The proposed amendment can be accommodated with existing public services and will not overburden the city's service capacity.

Sec. 25-3-700 Procedure; Variance.

- (a) **Initiation.** A variance is a request to depart from the literal provisions of the Ordinance in instances where their strict enforcement would cause practical difficulties. Variances shall only be permitted when they are in harmony with the general purposes and intent of the Ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Ordinance. "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the Ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Conditions may be imposed in the granting of variances. Such conditions shall be directly related to and must bear a rough proportionality to the impact created by the variance. No variance shall be granted for any use that is not allowed under the Ordinance for property in the zone where the affected person's land is located. A variance application may be initiated by:
- (1) A property owner.
- (b) **Application.** An application must be made on the application form provided by the City. The following items must be submitted to the Community Development Director at least 30 days before Planning Commission review:

- (1) A complete application; and
- (2) The application fee.

The City Council must approve or deny, within 60 days, an application for variance permit. This time limit begins when the Community Development Director receives a complete application and application fee. If the Community Development Director receives an incomplete application, the 60-day limit does not begin if the Community Development Director sends written notice within 15 business days of receipt of the incomplete application advising the applicant of the information that is missing.

- (c) **Application Extension.** The Community Development Director may extend the time limit before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. At any time, the applicant may, by written notice to the Community Development Director, request an extension of the time limit under this section.
- (d) **Variance; Administrative.** The Community Development Director may grant a variance, and impose conditions upon the variance to insure compliance and to protect adjacent properties, for the placement of individual single- or two-family dwellings or their accessory structures when the following conditions are met:
 - (1) The setback variance does not exceed the minimum requirements by more than 5 feet; and
 - (2) The applicant submits a City of Oakdale Variance Request Form signed by all owners of affected property and property situated wholly or partly within 100 feet of the property to which the variance relates to each owner supporting the request.
- (e) **Variance; Planning Commission.** The Planning Commission may grant a variance and impose conditions upon the variance request to insure compliance and to protect adjacent properties, for the placement of individual single- or two-family dwellings or their accessory structured when the following conditions are met:
 - (1) The setback variance does not exceed the minimum requirements by more than 5 feet; and
 - (2) The applicant submits a City of Oakdale Variance Request Form signed by all owners of affected property and property situated wholly or partly within 100 feet of the property to which the variance relates to each owner supporting the request.
- (f) **Public Notice.** The Community Development Director shall send a notice to each owner of affected property and property situated wholly or partly within 500 feet of the property to which variance relates at least 10 days before the Planning Commission review. This notice shall include:

- (1) A site plan of the property to which the variance relates; and
- (2) An explanation of the variance; and
- (3) The date and time of Planning Commission review

The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the notice requirements has been made.

- (g) **Planning Commission.** A variance request not meeting the conditions of an Administrative (Sec. 25-13(d)) or Planning Commission variance (Sec. 25-13(e)) shall be referred to the Planning Commission for review and recommendation. The Planning Commission may impose conditions upon the variance request to insure compliance and to protect adjacent properties.
- (h) **City Council.** The City Council may approve the variance permit request by a majority vote of all its members. If the City Council denies the variance permit request it must state in writing the reasons for the denial at the time that it denies the request. If a written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the request but before the expiration of the time allowed for making the decision. The written statement must be consistent with the reasons stated in the record at the time of denial. The written response of denial or approval with conditions meets the 60-day time limit if the City can document that the response was sent within 60 days of receipt of the complete written application. No variance that has been denied wholly or in part shall be reconsidered for a period of 180 days from the date of the order of denial, except on grounds of new evidence or proof of changed conditions. The City Council may impose conditions in the granting of variances to insure compliance and to protect adjacent properties.
- (i) **Criteria for Approving a Variance.** The Planning Commission and City Council shall consider possible effects of the proposed variance permit request. A variance permit shall only be granted when it is demonstrated that:
 - (1) The proposed variance has been reviewed and found to be consistent with the official Comprehensive Plan policies; and
 - (2) Such actions are in harmony with the general purposes and intent of the Ordinance; and
 - (3) The property owner proposes to use the property in a reasonable manner not permitted by the Ordinance; and
 - (4) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - (5) Granting the variance will not alter the essential character of the locality.
- (j) **Variance; Recording.** Upon approval of the variance request the Community Development Director shall record the resolution with Washington County.

Sec. 25-3-800 Procedure; Site Plan.

- (a) **Initiation.** The City Council declares it necessary and appropriate to require a site plan permit in certain districts to preserve and promote attractive, well planned stable urban conditions. A Site Plan permit is required for multi-family dwellings of 3 or more units, mobile home developments, commercial and industrial developments, and developments in a Wetland District. A site plan permit application may be initiated by:
- (1) A property owner.
- (b) **Application.** An application for a permit must be made on the application form provided by the City. The following items must be submitted to the Community Development Director at least 30 days before the Planning Commission review:
- (1) A complete application; and
 - (2) The application fee.
- The City Council must approve or deny a permit request within 60 days. This time limit begins when the Community Development Director receives a complete application containing all of the information required by this Ordinance, including the application fee. If the Community Development Director receives an incomplete application, the 60-day limit does not begin if the Community Development Director sends written notice within 15 business days of receipt of the incomplete application advising the applicant of the information that is missing.
- (c) **Application; extensions.** The Community Development Director may extend the time limit before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. At any time the applicant may, by written notice to the Community Development Director, request an extension of the time limit under this section.
- (d) **Concept Site Plan Review.** Before proceeding with site plan review by the Planning Commission, the Community Development Director may require concept site plan review and approval by the City Council with input from the Planning Commission. The scope of the review shall be limited to land use, general circulation patterns, general building massing, and the general approach to special site conditions or problems.
- (e) **Planning Commission.** A permit request shall be referred to the Planning Commission for review and recommendation to the City Council.
- (f) **City Council.** The City Council may approve a permit request by a majority vote of all its members. If the City Council denies the permit request, it must state in writing the reasons for the denial at the time that it denies the request. If a written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the request but before the expiration of the time allowed for making the decision. The written statement must

be consistent with the reasons stated in the record at the time of denial. The written response of denial or approval with conditions meets the 60-day time limit if the City can document that the response was sent within 60 days of receipt of the complete written application. No permit request that has been denied wholly or in part shall be reconsidered for a period of 180 days from the date of the order of denial, except on grounds of new evidence or proof of changed of conditions.

- (g) **Criteria for Approving a Site Plan.** The Planning Commission and City Council shall consider possible effects of the proposed permit request. Permit requests shall only be granted when it is demonstrated that:
 - (1) The proposed site plan is in conformity with the City's comprehensive plan and with the purpose, intent and applicable standards of this Ordinance, and
 - (2) The proposed site plan can be accommodated with existing public services and will not overburden the city's service capacity.
- (h) **Site Plan Agreement.** Before issuing a building permit the City Council may require the applicant to enter into a site plan agreement with the City, which assures that specific elements of the site plan proposed by the applicant or imposed by the City Council shall be carried out within a specific time period. The City Council may require that a performance bond, irrevocable letter of credit or cash deposit be present by the developer to ensure completion of such improvements. Such financial guarantee may equal 125% of the estimate cost of specified improvements. At least 40% of the financial guarantee for landscaping improvements shall be retained for two complete growing seasons.
- (i) **Time Limit; Site Plan.** The applicant must be issued a building permit within 548 days from the day the City Council approves the site plan. Failure to be issued a building permit will require the applicant to reapply and obtain a new permit. At any time within the 548 days the applicant may, by written notice to the Community Development Director, request one extension of up to 180 days.

Sec. 25-3-900 Procedure; Conditional Use.

- (a) **Initiation.** A conditional use is a permitted use that is allowed only when it is shown that the use meets certain general and specific standards related to the proposed conditional use. A request for a conditional use permit may be initiated by:
 - (1) A property owner.
- (b) **Application.** An application for a permit must be made on the application form provided by the City. The following items must be submitted to the Community Development Director 30 days before the Planning Commission public hearing:
 - (1) A complete application; and
 - (2) The application fee.

The City Council must approve or deny a permit request within 60 days. This time limit begins when the Community Development Director receives a complete application and application fee. If the Community Development Director receives an application that is not complete, the 60-day limit does not begin if the Community Development Director sends written notice within 15 business days of receipt of the incomplete application advising the applicant of the information that is missing.

- (c) **Application; extensions.** The Community Development Director may extend the time limit before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. At any time the applicant may, by written notice to the Community Development Director, request an extension of the time limit.
- (d) **Public Hearing Notice; Planning Commission:** No permit shall be approved until the Planning Commission has held a public hearing. The Community Development Director shall set the date for the public hearing. The notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the city at least 10 days before the day of the hearing. A similar notice shall be mailed at least 10 days before the day of the hearing to each owner of affected property and property situated wholly or partly within 500 feet of the property to which the request for a conditional use relates. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the notice requirements has been made.
- (e) **Planning Commission.** A Conditional Use Permit request shall be referred to the Planning Commission to review the application, hold the public hearing, and provide a recommendation to the City Council.
- (f) **City Council.** The City Council may approve a permit request by a majority vote of all its members. If the City Council denies the permit request, it must state in writing the reasons for the denial at the time that it denies the request. If a written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the request but before the expiration of the time allowed for making the decision. The written statement must be consistent with the reasons stated in the record at the time of denial. The written response of denial or approval with conditions meets the 60-day time limit if the City can document that the response was sent within 60 days of receipt of the complete written application. No amendment request that has been denied wholly or in part shall be reconsidered for a period of 180 days from the date of the order of denial, except on grounds of new evidence or proof of changed of conditions.
- (g) **General Criteria for Approving a Conditional Use.** The Planning Commission and City Council shall consider possible effects of the proposed conditional use. Its judgment shall be based upon, but not limited to, the following factors:
 - (1) The conditional use will be in conformity with the City's comprehensive plan and with the purpose, intent and applicable standards of this Ordinance; and

- (2) The conditional use shall be located, designated, maintained and operated to be compatible with the existing or intended character of that zoning district in which it is located; and
 - (3) The conditional use shall not be hazardous, detrimental or disturbing to present and potential surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution, vibration, general unsightliness or other nuisances; and
 - (4) The conditional use shall not create traffic congestion, unsafe access or parking needs that will cause inconveniences to the adjoining properties; and
 - (5) The conditional use shall be served adequately by essential public services, such as streets, police and fire protection and utilities; and
 - (6) The conditional use shall not create excessive additional requirements at public cost for public facilities and services and shall not be detrimental to the economic welfare of the City; and
 - (7) The conditional use shall preserve and incorporate the site's natural and scenic features into the development design and cause minimal adverse environmental effects; and
 - (8) Additional conditions related to the conditional use found in this Ordinance.
- (h) **Duration.** A conditional use permit shall remain in effect as long as the conditions are observed, but nothing shall prevent the city council from enacting or amending official controls to change the status of conditional uses.
 - (i) **Recording of Conditional Use Permit.** The Community Development Director shall record a certified copy of the permit with the county recorder. The permit shall include the legal description of the property.

Sec. 25-3-1000 Procedure; Interim Use.

- (a) **Initiation.** An interim use is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. A request for an interim use permit may be initiated by:
 - (1) A property owner.
- (b) **Application.** An application for a permit must be made on the application form provided by the City. The following items must be submitted to the Community Development Director 30 days before the Planning Commission public hearing:
 - (1) A complete application, and
 - (2) The application fee.

The City Council must approve or deny the permit request within 60 days. This time limit begins when the Community Development Director receives a complete application containing all of the information required by this Ordinance, including the application fee. If the Community Development Director receives an application that is not complete, the 60-day limit does not begin if the Community Development Director sends written notice within 15 business days of receipt of the incomplete application advising the applicant of the information that is missing.

- (c) **Application; extensions.** The Community Development Director may extend the time limit before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. At any time the applicant may, by written notice to the Community Development Director, request an extension of the time limit.
- (d) **Public Hearing Notice; Planning Commission.** No permit shall be approved until the Planning Commission has held a public hearing. The Community Development Director shall set the date for the public hearing. The notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the city at least 10 days before the day of the hearing. A similar notice shall be mailed at least 10 days before the day of the hearing to each owner of affected property and property situated wholly or partly within 500 feet of the property to which the interim use relates. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the notice requirements has been made.
- (e) **Planning Commission.** An Interim Use Permit request shall be referred to the Planning Commission to review the application, hold the public hearing, and provide a recommendation to the City Council.
- (f) **City Council.** The City Council may approve a permit request by a majority vote of all its members. If the City Council denies the amendment request, it must state in writing the reasons for the denial at the time that it denies the request. If a written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the request but before the expiration of the time allowed for making the decision. The written statement must be consistent with the reasons stated in the record at the time of denial. The written response of denial or approval with conditions meets the 60-day time limit if the City can document that the response was sent within 60 days of receipt of the complete written application. No amendment request that has been denied wholly or in part shall be reconsidered for a period of 180 days from the date of the order of denial, except on grounds of new evidence or proof of changed of conditions.
- (g) **Criteria for Approving an Interim Use.** The Planning Commission and City Council shall consider possible effects of the proposed Interim Use. Its judgment shall be based upon, but not limited to, the following factors:
 - (1) The use conforms to the zoning regulations; and

- (2) The date or event that will terminate the use can be identified with certainty; and
- (3) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
- (4) The user agrees to any conditions that the governing body deems appropriate for permission of the use.
- (5) The interim use will be in conformity with the City's comprehensive plan and with the purpose, intent and applicable standards of this Ordinance; and
- (6) The interim use shall be located, designated, maintained and operated to be compatible with the existing or intended character of that zoning district in which it is located; and
- (7) The interim use shall not be hazardous, detrimental or disturbing to present and potential surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution, vibration, general unsightliness or other nuisances; and
- (8) The interim use shall not create traffic congestion, unsafe access or parking needs that will cause inconveniences to the adjoining properties; and
- (9) The interim use shall be served adequately by essential public services, such as streets, police and fire protection and utilities; and
- (10) The interim use shall not create excessive additional requirements at public cost for public facilities and services and shall not be detrimental to the economic welfare of the City; and
- (11) The interim use shall preserve and incorporate the site's natural and scenic features into the development design and cause minimal adverse environmental effects; and
- (12) Additional conditions related to the interim use found in this Ordinance.

(h) **Termination.** An interim use permit shall terminate upon:

- (1) A change in zoning regulations occurs which prohibits the use; or
- (2) The termination date stated in the permit; or
- (2) Violations of the conditions under which the permit was issued.

Sec. 25-3-1100 Procedure; Planned Unit Development (PUD).

(a) **Meeting with City staff.** The developer shall meet with the Community Development Director to discuss the development concept, the review and approval process, and the submittal requirements.

- (b) **Concept Plan Review by City Council (Mandatory); Planning Commission (Optional).** The Concept Plan should indicate proposed land uses, general circulation patterns, general building massing, and the general approach to special site conditions or problems. The Council shall comment as to whether it feels the Concept Plan is in conformance with the City Comprehensive Plan. It will also inform the developer of any defects or deficiencies in the Concept Plan, what features or design elements should be in the Detailed Development Plan, and what exceptions it may be willing to allow in exchange for certain publicly beneficial design or planning features
- (c) **Application for PUD Approval.** After Concept Review by the City Council, the developer may make application for PUD approval on a form provided by the Community Development Director and pay the established fee and deposit.
- (d) **Detailed Development Plan/Preliminary Plat.** Based upon comments received regarding the Concept Plan, and working with the City staff, the developer shall submit a Detailed Development Plan. This shall include a Preliminary Plat if land subdivision is proposed. The list of materials for submission shall be the same as that for Site Plan Approval.
- (e) **Notice of Review.** Notice of Detailed Development Plan Review shall be given in the same manner as for rezoning applications.
- (f) **Review by Planning Commission of Detailed Development Plan.** The Detailed Development Plan shall be submitted to the Community Development Director at least 20 working days prior to the scheduled Planning Commission review. The Commission shall review the Detailed Development Plan in the same manner as it reviews a Site Plan Approval application.
- (g) **Review by the City Council of Detailed Development Plan.** The City Council shall review at a public hearing the Detailed Development Plan. The date of that public hearing shall be set by the Community Development Director as soon as possible after receipt of the application. It shall approve by a majority of the Council as provided in Minnesota Statutes Section 462.357, disapprove, or table the development proposal. The Plan may not be tabled for more than two meetings in succession. Conditions may be applied to the approval of the Plan and/or a periodic review of the Approval may be required.
- (h) **Developer's Agreement.** Prior to issuing a Building Permit, the City Council shall require the developer to sign an agreement with the City which assures that particular elements of the Detailed Development Plan, either proposed by the developer or imposed by the City, will be carried out.
- (i) **Method of Amending a PUD Approval.**
 - (1) Minor changes in the location and placement of buildings may be authorized by the City Council upon staff recommendation where unforeseen circumstances such as engineering requirements dictate such change.

(2) Changes in structural types, in the shape and arrangement of lots and blocks, in the allocation of open space, and all other changes which affect the overall design of the project shall be referred to the Planning Commission for report and recommendation, after which the City Council shall hold a review and shall decide to either approve or deny the changes in the Detailed Development Plan. If such changes are authorized, the developer shall submit a revised plan showing the authorized changes.

- (j) **Denial or PUD Approval.** If an application for a Planned Unit Development Approval is denied, no new application for a PUD Approval by the same applicant for the same site may be filed for 60 days from date of denial.
- (k) **Extension of Approval.** In the event that Planned Unit Development Approval is obtained and construction has not commenced within 12 months, the Planned Unit Development Approval will be considered null and void unless an extension is granted by the City Council. Only one such extension shall be permitted. The extension, if granted, shall be valid for a period of six (6) months.

Sec. 25-3-1200 Procedure; Appeals Administrative.

- (a) **Initiation.** An appeal is a request of the City Council by an affected person regarding an alleged error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance. A person aggrieved by a decision of the Community Development Director or their designee that is made under the authority of this ordinance may appeal such decision to the planning commission. An appeal may be initiated by:
- (1) An affected property owner.
- (b) **Application.** An application must be made on the application form provided by the City. The following items must be submitted to the Community Development Director no later than 10 days after the date of the decision:
- (1) A complete application.
- (c) **Planning Commission.** The appeal shall be referred to the Planning Commission for review and and action. An affected person aggrieved by the decision of the Planning Commission may appeal to the City Council in accordance with the procedures outlined in Sec. 25-3-1300.
- (d) Any applicant who obtains a building permit, starts construction, begins a use in reliance upon the decision of the administrative officer or any combination of those activities, prior to the termination of the appeal period, assumes the risk that the decision may be reversed upon appeal. When an appeal is received by the city the applicant will be notified of the appeal and informed as to the date of the Planning Commission meeting where it will be heard.

Sec. 25-3-1300 Procedure; Appeals Planning Commission.

- (a) **Initiation** . An appeal is a request of the City Council by an affected person regarding an alleged error in any order, requirement, decision, or determination made by the Planning Commission. A person aggrieved by a decision of the Planning Commission that is made under the authority of this ordinance may appeal such decision to the City Council. An appeal may be initiated by:
 - (1) An affected property owner.
- (b) **Application**. An application must be made on the application form provided by the City. The following items must be submitted to the Community Development Director no later than 10 days after the date of the decision.
 - (1) A complete application.
- (c) **City Council**. The City Council may reverse the decision of the Planning Commission by a majority vote of all its members.
- (d) Any applicant who obtains a building permit, starts construction, begins a use in reliance upon the decision of the planning commission, or any combination of those activities, prior to the termination of the appeal period, assumes the risk that the decision may be reversed upon appeal. When an appeal is received by the city the applicant will be notified of the appeal and informed as to the date of the City Council meeting where it will be heard.

Sec. 25-3-1400 Nonconformities.

- (a) Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this Ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
 - (1) The nonconformity or occupancy is discontinued for a period of more than 365 days; or
 - (2) Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body.
 - a. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. The city council may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety.
 - b. Notwithstanding paragraph (a), the city shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood

Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

Sec. 25-3-1500 Interpretation of the Zoning Ordinance.

- (a) In interpreting and applying the provision of this Ordinance, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not the intention of this Ordinance to interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of a building or premises or upon height or building, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or permits, or by easements, covenants or agreements, the provision of this Ordinance shall govern.