

## Chapter 11 – Section 1103

### ZONING ADMINISTRATION

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## **SECTION 1103.00 ZONING ADMINISTRATION.**

### **1103.01 POWERS GIVEN TO THE CITY COUNCIL.**

The City Council may on its own motion, or on request of the Planning Commission or on petition of the affected property owners, and in accordance with Section 1103.09:

1. Change the zoning of a parcel of land from one classification to another by amending the zoning ordinance. Adoption of an amendment which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds (2/3) vote of all members of the City Council.
2. Change any of the regulations of this Ordinance as to the use of land in any district or as to the restrictions upon buildings or structures therein, by amendment to this Ordinance.
3. Review and approve conditional use permits.
4. Review site plans for multiple-family buildings (three (3) or more units), commercial development or industrial development and mandate the inclusion or alteration of elements of the plans to protect adjacent properties. When a variance, conditional use or rezoning is requested, the site plan must be reviewed by the Planning Commission and City Council.
5. Hear and decide requests for variances from the literal provisions of this Ordinance.
6. 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 Ordinance.
7. Where the street or property layout existing on the ground is at variance with that shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the City Council shall interpret the district boundaries in accordance with this Section.

**1103.02 ENFORCEMENT.**

This Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may institute, in the name of the City of Belle Plaine, any appropriate actions or proceedings against a violator as provided by law.

Any person who violates any of the provisions of this Ordinance shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under State law. Each day that a violation is permitted to exist shall constitute a separate offense.

### **1103.03 ENFORCEMENT OFFICER.**

This Ordinance shall be administered and enforced by the Zoning Administrator, who shall be the City Planner, unless the City Council specifically appoints someone else. The Zoning Administrator shall be responsible for the enforcement of this Ordinance. The Zoning Administrator is authorized to do the following:

1. Examine all applications pertaining to the use of land, buildings or structures, and grant approval of, and issue permits or take other appropriate action on, such applications when in conformance with the provisions of this Ordinance.
2. Periodically inspect buildings, structures and uses of land to determine compliance with the terms of this Ordinance.
3. Notify, in writing, any person responsible for violating a provision of this Ordinance, indicating the nature of the violation and ordering the action necessary to correct it.
4. Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions or alterations; order discontinuance of illegal work being done; or take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Maintain permanent and current records of this Ordinance, including maps, amendments, conditional uses and variances.
6. Maintain a current file of all permits, zoning certificates, certificates of occupancy and notices of violation, discontinuance or removal for such time as necessary to insure continuous compliance with the provisions of this Ordinance and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.
7. Maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures in the Flood Plain Districts; and shall also maintain a record of the elevations to which structures or additions to structures are floodproofed.
8. File a certified copy with the County Recorder of conditional use permits granted.

**1103.04 APPEALS.**

Appeals shall be regulated pursuant to Section 206.00- Zoning Board of Appeals and Adjustments, of the Belle Plaine City Code.

*(Ord. 14-06, Section 1103.04, Adopted October 20, 2014).*

### **1103.05 VARIANCES.**

#### 1103.05 SUBD. 1. AUTHORITY AND CONDITIONS.

The City Council may allow a variance from the terms of the zoning regulations, including restrictions placed on nonconformities, 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan, and; 3) the applicant establishes that there are practical difficulties in complying with the zoning code.

#### 1103.05 SUBD. 2. REVIEW CRITERIA.

1. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, “practical difficulties” means:
  - A. The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;
  - B. The plight of the property owner is due to circumstances unique to the property not created by the landowner;
  - C. The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

2. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property.
3. The Board of Adjustments and Appeals may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.

#### 1103.05 SUBD. 3. PROCEDURES.

1. An application for a variance shall be submitted to the Zoning Administrator. A nonrefundable application fee, established from time to time by the City Council to cover administrative costs and costs of the hearing, shall accompany each application. The application shall contain the following information, as well as such additional information as may be required by the Zoning Administrator:
  - A. The applicant’s name and address.
  - B. A site plan drawn to scale showing the property dimensions, existing and proposed buildings and other structures, existing and proposed grading, landscaping, easements and location of utilities, as applicable. The Zoning Administrator may require the applicant to obtain a certified survey at the time of application.

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- C. The particular requirements of this zoning code which prevent the proposed use or construction.
  - D. The characteristics of the subject property which prevent compliance with the said requirements of this zoning code.
  - E. The minimum reduction of the requirements of this zoning code which would be necessary to permit the proposed use or construction.
  - F. The practical difficulties which would result if said requirements of this zoning code were applied to the subject property.
  - G. If the variance is part of an application for Commercial, Industrial, or Multiple-Family Residential Site Plan Approval, all of the submittal requirements for a Site Plan, Section 1103.07, shall also apply.
2. A public hearing shall be set, advertised, and conducted by both the Planning Commission and City Council in accordance with Section 1103.09 of this Ordinance.
    - A. For a variance in the Flood Plain District, the Zoning Administrator shall submit to the Commissioner of Natural Resources a copy of the application for proposed variances located in the Flood Plain District sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
    - B. For a variance adjacent to Trunk Highway 169, State Highway, or Scott County right-of-way, the Zoning Administrator shall submit to the appropriate office a copy of the application for proposed variances located in the highway right-of-way sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
  3. The applicant or representative shall appear before the Planning Commission and City Council to answer questions concerning the proposed variance.
  4. Within the time frame established by Minnesota Statutes section 15.99, following receipt of the completed application, the City Council shall render its decision granting or denying the variance. Such decision shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed variance. Such plans and specifications shall remain a part of the permanent records of the City Council. The findings of fact shall specify the reason or reasons for granting or denying the variance. The terms of relief granted shall be specifically set forth in a conclusion or statement separate from the findings of fact. In extenuating circumstances, extension of the sixty (60) days may be granted upon receipt of signed request from applicant.
  5. The City Council should not grant a variance until they have received a report and recommendation from the Planning Commission.
  6. All decisions by the Council involving a variance request shall be final except that an aggrieved person or persons shall have the right to file an appeal within thirty (30) days of the decision to the Scott County District Court.

7. Whenever an application for a variance has been considered and denied by the City Council, a similar application and proposal for the variance affecting the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than two-thirds (2/3) vote of the full City Council.
8. Motions on variances require a simple majority of the Planning Commission or City Council for passage.
9. A copy of all decisions granting a variance shall be forwarded to the appropriate office as listed in Section 1103.05 Subd. 3, Procedures, (2) (A) and (B), within ten (10) days of such action.

#### 1103.05 SUBD. 4. LAPSE OF VARIANCE.

If within one (1) year after granting a variance the use, as allowed by the variance, shall not have been initiated or utilized, then such a variance 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 Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance. 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 the use permitted in the variance. Such petition shall be presented to the Council for decision.

*(Ord. 11-09, Section 1103.05, Subd. 1, 2, 3, Adopted September 19, 2011.)*



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**1103.06 ORDINANCE AMENDMENTS AND LAND REZONINGS.**

1103.06 SUBD. 1. AUTHORITY.

This Ordinance and the Zoning District Map may be amended from time to time by ordinance duly enacted by the City Council; provided, however, that no such amendment shall be enacted except in accordance with the procedures of Section 1103.09, Public Hearings.

1103.06 SUBD. 2. INITIATION.

Proposed amendments or rezonings may be initiated by the City Council, by the Planning Commission or by any one or more owners of real estate in the area to be affected by the amendment or rezoning, or by the owner of an enforceable option to purchase property in the area affected by the amendment or rezoning.

1103.06 SUBD. 3. PROCEDURE.

1. When any proposed amendment or rezoning is initiated by the City Council, the Council shall transmit its proposal to the Planning Commission for a public hearing and report thereon.
2. When any proposed amendment or rezoning is initiated by an owner or owners of real estate in the City, an application for such amendment or rezoning, addressed to the City Council, shall be filed with the Zoning Administrator. A nonrefundable application fee, established from time to time by the City Council to cover administrative costs, shall accompany the application.

The application shall be in such form and contain such information as shall be prescribed from time to time by the Planning Commission, but shall in all instances contain the following information:

- A. The applicant's name and address;
- B. The precise wording of any proposed amendment to the text of this Ordinance; and
- C. In the case of a rezoning:
  1. A legal description and street address of the property proposed to be reclassified,
  2. The name and address of the property owner or owners of the said property,
  3. The present zoning classification and existing uses of the property to be reclassified,
  4. The area of the property proposed to be reclassified, stated in square feet or acres, or fraction thereof, and
  5. A map, drawn to scale, clearly showing the property proposed to be rezoned, its present zoning classification, existing uses, and its initial use under the proposed zoning and, if deemed necessary by the Zoning Administrator, a land survey will be required.

3. A public hearing shall be set, advertised and conducted by the Planning Commission and City Council in accordance with Section 1103.09 of this Ordinance.
4. The Planning Commission shall consider possible adverse effects of the proposed amendment. 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 has been found to be consistent with the official City 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 herein.
  - D. The proposed use will not tend to or actually depreciate the property values in 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.
  - F. Traffic generation by the proposed use is within capabilities of streets serving the property.
5. Within thirty (30) days following the conclusion of the public hearing, the Planning Commission shall transmit to the City Council its recommendation in the form of a written report. Such report shall be accompanied by the findings of fact specifying the reasons for the recommendation.
6. Within the time frame established by Minnesota Statutes section 15.99 following receipt of the completed application, the City Council shall render its decision granting or denying the ordinance amendment and/or land rezone. Such decision shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed amendment or rezone. Such plans and specifications shall remain a part of the permanent records of the City Council. The findings of fact shall specify the reason or reasons for granting or denying the ordinance amendment and/or land rezone.
7. Approval of a proposed amendment shall require passage by a two-thirds (2/3) vote of the entire City Council when the amendment changes all or part of an existing classification of a zoning district from residential to either commercial or industrial.
8. The City Council may apply a condition to a rezoning that would revert the site to the previous zoning classification if substantial development activity has not commenced on the site within one (1) year of the date of rezoning approval.
9. Whenever an application for an amendment has been considered and denied by the City Council, a similar application and proposal for the amendment affecting the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months.

10. The Flood Plain designation on zoning maps shall not be removed from the flood plain areas unless it can be shown that the designation is in error or that the areas are filled to an elevation at or above the flood protection elevation and are contiguous to other lands lying outside the Flood Plain District. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he/she determines that, through other measures, lands are protected adequately for the intended uses.

All amendments to either the Flood Plain designation on the official zoning map or Flood Plain provisions of this Ordinance must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.

11. Whenever an application for an amendment has been considered and denied by the City Council, a similar application and proposal for the amendment affecting the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months.
12. The amendment shall not become effective until such time as the City Council approves an ordinance reflecting said amendment and after said ordinance is published in the official newspaper.

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## **1103.07 SITE PLAN REVIEW.**

### **1103.07 SUBD. 1. REQUIREMENTS.**

The City Council declares it necessary and appropriate to require site plan approval of development in certain zoning districts to preserve and promote attractive, well-planned stable urban conditions. This includes all proposed residential developments, commercial developments, industrial developments and all proposed developments in the Flood Plain District. Site plan approval must be obtained before a building permit is issued. True and accurate representation of the following requirements are the responsibility of the applicant.

#### **1. Exceptions:**

- A. Detached single family dwellings.
- B. Attached single family dwellings with four or fewer units per structure.
- C. Multiple family dwellings with four or fewer units per structure.
- D. A one-time alteration to existing multiple family, commercial, or industrial structures totaling twenty (20) percent or less of the gross floor area of the existing structure provided the enlargement is 10,000 square feet or less in gross floor area.
- E. Changes to interior spaces where the change does not intensify the use, require additional parking, or otherwise result in an inability to maintain required performance standards.

#### **2. Application for Site Plan Approval.**

Applications for Site Plan Approval shall be on an official application form provided by the Zoning Administrator and shall include the fee as set by City Council resolution. Such application shall be accompanied by detailed written and graphic materials, the number and size as prescribed by the Zoning Administrator, fully explaining the proposed change, development, or use. In all cases, unless waived by the Zoning Administrator, the Site Plan shall contain:

- A. Name of project.
- B. Location of project, including a vicinity map.
- C. Name and mailing address of developer/owner.
- D. Name, telephone number, and mailing address of the project engineer and/or architect.
- E. Date of plan preparation.
- F. North point and graphic scale.
- G. Boundary line of project site with dimensions. All site plans shall be drawn at an engineering scale (e.g. 1"=40').
- H. A Registered Land Survey if deemed necessary by Zoning Administrator.
- I. Proof of Ownership or Authorization. The applicant shall supply proof of ownership (ownership and encumbrances report) and the legal description of the property for which the site plan approval is requested.

- J. The site plan shall also contain the following features, both existing and proposed, drawn by a Registered Engineer, Architect, Landscape Architect and/or Land Surveyor:
1. Topographic contours at a minimum interval of (2) two feet.
  2. Adjacent and on-site streets and street rights-of-way. Any access onto County or State roads must be approved by such authority prior to City Council approval.
  3. Location, size, and type of existing and proposed water and sewer system mains and proposed service connections. ~~utilities and~~ Utility right-of-way easements, man-hole rim elevations and pipe elevations and sizes.
  4. Existing and proposed buildings, elevations, signs, and light poles.
  5. Location, setback, surfacing, and curb height for all parking and loading facilities, curb cuts, and driveways.
  6. For projects involving more than five (5) acres or projects totaling one acre or more of impervious surface: grading, drainage, and storm water pollution prevention plans including:
    - i. Existing contours and proposed elevations,
    - ii. Spot elevations,
    - iii. Configuration of drainage areas and calculations,
    - iv. Storm sewer, catch basins, invert elevations, type of castings, and type of materials,
    - v. Proposed driveway grades,
    - vi. Existing and proposed surface water ponding and treatment areas, collection and conveyance features including arrows indicating the direction of surface water flow over the map of proposed contours.
    - vii. Erosion control measures.
  7. Surface water ponds, ditches and wetlands.
  8. Sidewalks and trails.
  9. The location of tree cover, including the designation of trees of fifteen (15) inches in diameter or more.
  10. Fences and retaining walls.
  11. Shielded exterior refuse collection areas.
  12. Landscaping, including species and minimum size (refer to Section 1107.03 Screening and Landscaping).
  13. Traffic flow and vehicular and pedestrian circulation on- and off-site.
  14. Height above mean sea level of buildings.
  15. Project data including square footage of buildings and number of parking spaces.
  16. A description and/or illustration of proposed exterior finish materials (type, color, and materials used in all external surfaces) and, if requested, architectural elevations for all surfaces.
  17. The current zoning of the property and a listing of all required federal, state, and city permits and the status of such applications.
  18. Lighting Plan, if applicable.
  19. Location of recreation and service areas, if applicable.
  20. Location of rooftop equipment and proposed screening.

21. Fire protection plan.
  22. Typical floor plan and typical room plan drawn to scale with a summary of square footage for each use or activity.
  23. Vicinity map showing the subject property in reference to nearby properties and features.
  24. The Zoning Administrator may require the developer to submit the following items if important for adequate understanding of the project:
    - a. Aerial photograph(s) of the site.
    - b. Cross-section drawings.
    - c. Perspective sketch(es).
    - d. A professional analysis of traffic impact or other infrastructure impact (e.g., storm sewer, water, sanitary sewer).
    - e. Information sufficient to objectively determine compliance with the standards of Section 1109.00 of the Code related to Land and Water Preservation, as may be amended.
    - f. A sound source control plan.
    - g. Traffic study.
    - h. Other relevant information necessary for complete review of the proposed application.
3. Procedure.
- A. Pursuant to Minnesota Statutes 15,99, an application for site plan approval shall be approved or denied within sixty (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.
  - B. Filing of Request. Request for site plan approval shall be filed with the Zoning Administrator in accordance with Section 1103.07, Subd. 1(1). An application shall be considered as being officially submitted and complete when the applicant has complied with all specified information requirements. In cases where an application is judged to be incomplete, the Zoning Administrator or designee shall notify the applicant, in writing, of what information must be provided for the application to be deemed complete within fifteen (15) business days of the date of submission.
  - C. Technical Reports. The Zoning Administrator or designee shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in conducting an evaluation of the request.
  - D. Additional Information. City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert assistance with the consent and at the expense of the applicant concerning operations factors. Said information is to be declared necessary to evaluate the request and/or to establish performance conditions in relation to all pertinent sections the Code. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

- E. Meeting with Zoning Administrator and/or Staff: The applicant and/or applicant representative(s) shall meet with the Zoning Administrator and/or staff as requested by the Zoning Administrator or designee in order to present information and answer questions concerning the proposed site plan.
- F. In considering applications for Site Plan Approval under this Section, the Zoning Administrator, and, where applicable, the Design Review Committee shall consider the following:
  - 1. How the site plan relates to conditions both on and off the site.
  - 2. Conformance with the Belle Plaine Comprehensive Plan.
  - 3. The impact of the site plan on the existing and anticipated traffic and parking conditions.
  - 4. Building location and height.
  - 5. Sanitary sewer, water, and drainage conditions, landscaping, lighting, open space, signage, setbacks, and related matters.
  - 6. The design guidelines as outlined in the Belle Plaine Design Manual.
  - 7. Provisions of this Section and other applicable Chapters of the City Code.

G. Decision. The Zoning Administrator shall reach a decision on the request and provide written notification to the applicant. The Zoning Administrator may approve the site plan, deny the site plan, or approve the site plan with specific reasonable conditions.

4. Developer's/Builder's Agreement.

Prior to issuing a building permit, the Zoning Administrator may require the developer/builder to sign an agreement with the City which assures that particular elements of the Site Plan approval application, either proposed by the applicant or imposed by the City Council, shall be carried out. The City Council may require the applicant to provide a performance bond or irrevocable letter of credit to ensure that certain improvements are implemented.

5. Certification of Taxes Paid.

Prior to approving an application for a site plan review, the applicant shall provide evidence 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 site plan review application relates.

6. Plan Agreements.

All site and construction plans officially submitted to the City shall be treated as a formal agreement between the applicant and the City. Once approved, no changes, modifications, or alterations shall be made to any plan detail, standard, or specifications without prior submission of a plan modification request to the Zoning Administrator.

7. Site Plan Modifications.

An amended site plan involving major changes as determined by the Zoning Administrator shall be applied for and administered as required for a new site plan.

8. Building Codes.

The review and approval of site improvements pursuant to the requirements of City adopted building and fire codes shall be in addition to the site plan review process established under this Section. The site plan approval process does not imply compliance with the requirements of these building and fire codes.

9. Plan Referral.

The Zoning Administrator or the site plan applicant shall have the authority to refer a site plan to the Planning Commission and/or City Council for discussion, review, and informal comment. Any opinions or comments provided to the applicant by the Zoning Administrator, Planning Commission, or Council shall be considered advisory only and shall not constitute a binding decision on the request.

*(Ord. 17-03, Section 1103.07, Adopted March 20, 2017.)*



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**SECTION 1103.08 CONDITIONAL USES.**

1103.08 SUBD. 1. PURPOSE.

The purpose of a Conditional Use Permit is to provide the City of Belle Plaine with a reasonable degree of discretion in determining A) the suitability of certain designated uses upon the general welfare, public health and safety, and B) the ability of such uses to achieve the objectives of the Comprehensive Plan. In making this determination, such Conditional Uses require special consideration so they may be located properly with respect to their effects on surrounding properties. In order to achieve these purposes, the City Council is empowered to grant or to deny applications for Conditional Use Permits, and to impose reasonable conditions upon the granting of these Permits.

1103.08 SUBD. 2. AUTHORITY.

The City Council may, after review and recommendation by the Planning Commission, grant a Conditional Use Permit or overturn the vote of the Planning Commission with a two-thirds (2/3) vote.

1103.08 SUBD. 3. PROCEDURE.

1. The property owner or their agent shall meet with the Zoning Administrator to explain the situation, learn the procedures and obtain an application form.

2. The applicant shall file the completed application form together with the required exhibits and filing fee with the Zoning Administrator. As applicable, the application shall contain the following information and any such additional information as requested by the Zoning Administrator:

A. Site Development Plan:

- 1). Location of all buildings on lots including both existing and proposed structures.
- 2). Location of all adjacent buildings located within three hundred fifty (350) feet of the exterior boundaries of the property in question.
- 3). Location and number of existing and proposed parking spaces.
- 4). Vehicular circulation.
- 5). Architectural elevations (type and materials used in all external surface).
- 6). Location and type of all proposed lights.
- 7). Curb cuts, driveways, number of parking spaces.

B. Dimension Plan:

- 1). Lot dimensions and area.
- 2). Dimensions of proposed and existing structures.
- 3). "Typical" floor plan and "typical" room plan.
- 4). Setbacks of all buildings located on property in question.
- 5). Proposed setbacks.
- 6). Sanitary sewer and water plan with estimated use per day.

C. Grading Plan:

- 1). Existing contours.
- 2). Proposed grading elevations.
- 3). Drainage configuration.
- 4). Storm sewer catch basins and invert elevations.
- 5). Spot elevations.
- 6). Proposed road profile.

D. Landscape Plan:

- 1). Location of all existing trees including the type, diameter and potential removal.
- 2). Location, type and diameter of all proposed plantings.
- 3). Location and material used of all screening devices.

E. Legal description of property under consideration.

F. Proof of ownership of the land for which a Conditional Use Permit is requested, or written permission from the property owner.

3. The Zoning Administrator shall transmit the application and exhibits to the Planning Commission. Written notice of the public hearing shall be mailed at least ten days before the date of the hearing to the property owners within 350 feet of the outer boundaries of the area in question. Failure of any property owner to receive notification shall not invalidate the proceedings.
4. The Zoning Administrator shall have notice of the required public hearing published in the official municipal newspaper not less than ten (10) calendar days prior to the date of the hearing.
5. The Planning Commission shall hold a public hearing, study the application in relation to the General and Specific Standards as outlined in Section 1107.08, SUBDS. 4 and 5 to determine possible adverse effects of the proposed conditional use, determine what additional requirements may be necessary to reduce such adverse effects and provide a recommendation to the City Council for its official action.
6. The City Council may hold such public hearings as it may consider necessary on a proposed Conditional Use Permit, consider application materials and the recommendation of the Planning Commission and make a final decision on the Conditional Use Permit request.
7. If 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 six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than two-thirds (2/3) vote of the full City Council.

1103.08 SUBD. 4. GENERAL STANDARDS FOR GRANTING A CONDITIONAL USE PERMIT.

No Conditional Use Permit shall be granted unless the City Council determines that all of the following general standards will be met. In addition to these general standards, the City Council may impose any other conditions deemed necessary to protect the health, safety and general welfare of the public.

1. The use is consistent with goals, policies and objectives of the Comprehensive Plan.
2. The use is consistent with the intent of this Ordinance.
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.
4. The use does not have an undue adverse impact on the public health, safety or welfare.
5. The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
6. The use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
7. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.
8. Adequate measures have been or will be taken to provide for vehicular and pedestrian safety and convenience to, from and within the site.
9. The use meets all of the performance criteria requirements as established in Section 1107.01 of this chapter.
10. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

1103.08 SUBD. 5. SPECIFIC USE STANDARDS FOR GRANTING OF A CONDITIONAL USE PERMIT.

In addition to the General Standards specified in Section 1103.08 Subd. 4, no Conditional Use Permit shall be granted unless the City Council determines that each of the following specific use standards have been met for the following uses:

A. Conditional Uses in Residential Districts.

The following are conditional uses in the A-2, R-1, R-2, R-3 and R-7 Residential Districts requiring a conditional use permit based upon procedures set forth and regulated by Section 1103.08 of this Ordinance.

1. Governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:
  - a. Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.
  - b. Equipment is completely enclosed in a permanent structure with no outside storage.
  - c. Adequate screening from neighboring uses and landscaping is

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provided in compliance with Section 1107.03 of this Ordinance.

2. Event Centers, provided that:
  - a. Access to the site must be from a public street.
  - b. Event center activities are limited to indoor spaces, unless and outdoor café permit and/or large assembly permit is issued.
  - c. Any conditional use permit issued to permit operation of an event center may include limits on the number of patrons or attendees and other appropriate limitations based on the size of the site, structures, parking availability, and other relevant factors.
  - d. Compliance with all applicable regulations which include but may not be limited to: licensing standards contained in Chapter Three of the City Code, performance standards contained in Section 1107.01 of the City Code, the State Health Code, State building codes, and local liquor license requirements.
  
3. Public or semi-public recreational buildings and neighborhood or community centers; public and private educational Institutions limited to elementary, junior high and senior high schools, non-profit organizations serving a charitable educational purpose; and religious institutions such as churches, chapels, temples, synagogues and cemeteries, provided that:
  - a. Side yards shall be double that required for the district, but no greater than twenty (20) feet.
  - b. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 1107.03 of this Ordinance.
  - c. Adequate off-street parking and access is provided on the site or on lots directly abutting directly across a public street or alley to the principal use in compliance with Section 1107.12 of this Ordinance.
  - d. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 1107.13 of this Ordinance.
  - e. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
  
4. Nursing homes and similar group housing, but not including hospitals or similar institutions, provided that:
  - a. Side yards shall be double that required for the district, but no greater than twenty (20) feet.
  - b. Screening and landscaping is provided in compliance with Section 1107.03 of this Ordinance.
  - c. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
  - d. All State laws and statutes governing such use are strictly adhered to and all required operating permits are secured.
  - e. Adequate off-street parking is provided in compliance with Section 1107.12 of this Ordinance.
  - f. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 1107.13 of this Ordinance.

5. Elderly (senior citizen) housing, provided that:
  - a. Not more than ten (10) percent of the occupants may be persons sixty (60) years of age or under.
  - b. There is adequate off-street parking in compliance with Section 1107.12 of this Ordinance.
  - c. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 1107.13 of this Ordinance.
  - d. Parking areas are screened and landscaped from view of surrounding and abutting residential districts in compliance with Section 1107.03 of this Ordinance.
  - e. Elevator service is provided to each floor level above ground floor and such specifications shall be accessible for emergency medical transport equipment.
  
6. Golf courses, provided that:
  - a. The minimum size shall be not less than nine (9) holes and fifteen (15) acres.
  - b. There shall be no more than one (1) principal building for use as a club house. The club house design shall be of residential character and exterior materials shall be primarily wood and brick.
  - c. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
  - d. There is adequate off-street parking in compliance with Section 1107.12 of this Ordinance.
  - e. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 1107.13 of this Ordinance.
  - f. Parking areas are screened and landscaped from view of surrounding and abutting residential districts in compliance with Section 1107.03 of this Ordinance.
  
7. Hospitals, provided that:
  - a. Side yards shall be double that required for the district, but no greater than twenty (20) feet.
  - b. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 1107.03 of this Ordinance.
  - c. Adequate off-street parking and access is provided on the site or on lots directly abutting directly across a public street or alley to the principal use in compliance with Section 1107.12 of this Ordinance.
  - d. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 1107.13 of this Ordinance.
  - e. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
  
8. Reserved.

*(Ord. 18-01 Section1103.08, February 20, 2018.)*

9. Bed and Breakfast Inn.
  - a. The owner or resident manager of the establishment shall operate and reside at the facility.
  - b. The establishment shall conform to State Health and Building Code requirements.
  - c. The establishment's owner must furnish evidence that licenses required by the State of Minnesota either have been issued or will be issued before commencing operation.
  - d. The establishment shall be limited to five (5) guest rooms.
  - e. Guests shall not stay at the establishment for more than thirty (30) days within any ninety (90) day period.
  - f. The establishment shall provide a minimum of one (1) off-street automobile parking space for each guest room and one (1) off-street automobile parking space for the owner of the establishment.
  - g. Identifying signs for the establishment to be no more than twenty (20) square feet in total, located on the building and consistent with the character of the building.
  - h. No cooking or cooking facilities shall be allowed or provided in the establishment's guest rooms.
  - i. Meals shall be provided only to overnight guests of the establishment. The City Council may approve, at its sole discretion, the provision of meals for non-guests for special events such as banquets or family gatherings. Approval may be limited to a single event or on an annual basis.
  - j. The City Council may at its sole discretion, waive parking and other non-health and safety requirements of land use and zoning ordinances of the City for facilities listed on the National Register of Historic Places.

#### B. Conditional Uses in B-2 Highway Commercial District.

The following are conditional uses in the B-2 District requiring a conditional use permit based upon procedures set forth and regulated by Section 1103.08 of this Ordinance.

1. Drive-in and convenience food establishments, provided that:
  - a. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area so as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
  - b. At the boundaries of a residential district, a strip not less than five (5) feet shall be landscaped and screened in compliance with Section 1107.03 of this Ordinance.
  - c. Each light standard island and all islands in the parking lot shall be landscaped or covered.
  - d. Parking areas shall be screened from view of abutting residential districts in compliance with Section 1107.03 of this Ordinance.
  - e. Parking areas and driveways shall be curved with continuous curbs not

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- less than six (6) inches high above the parking lot or driveway grade.
- f. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movements, shall comply with Section 1107.12 of this Ordinance and shall be subject to the approval of the City Engineer.
  - g. Vehicle stacking shall be a minimum of eighty (80) feet.
  - h. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle as measured from the center of said street. Any light or combination of lights which cast light on residential property shall not exceed four (4) foot candles as measured from said property.
  - i. The entire area shall have a drainage system which is subject to the approval of the City Engineer.
  - j. The entire area other than occupied by buildings or plantings shall be surfaced with blacktop or concrete which is subject to the approval of the City Engineer.
  - k. Public address systems shall not be audible from any residential parcel.
  - l. No outside storage except as allowed in compliance with Section 1107.08. An enclosed screened area is to be provided for rubbish and dumpsters.
2. Commercial car washes (drive-through, mechanical and self service), provided that:
- a. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or areas as to cause impairment in property values or constitute a blighting influence.
  - b. Magazining or stacking space is constructed to accommodate that number of vehicles which can be washed during a maximum thirty (30) minute period and shall be subject to the approval of the City Engineer.
  - c. At the boundaries of a residential district, a strip of not less than five (5) feet shall be landscaped and screened in compliance with Section 1107.03 of this Ordinance.
  - d. Each light standard island and all islands in the parking lot shall be landscaped or covered.
  - e. Parking and car magazine storage space shall be screened from view of abutting residential districts in compliance with Section 1107.03 of this Ordinance.
  - f. The entire area other than that occupied by buildings or plantings shall be surfaced with blacktop or concrete which will control dust and drainage which is subject to the approval of the City Engineer.
  - g. The entire area shall have a drainage system which is subject to the approval of the City Engineer.
  - h. All lighting shall be hooded and so directed that the light source is not

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- visible from the public right-of-way or from an abutting residence. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle as measured from the center of said street. Any light or combination of lights which cast light on residential property shall not exceed four (4) foot candles as measured from said property.
- i. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the City Engineer.
  - j. Provisions shall be made to control and reduce noise.
  - k. All washing facilities shall be completely enclosed within the structure.
  - l. Vacuuming facilities shall not be located along public streets and shall be completely screened from public streets and adjacent property.
3. Motor vehicle fuel sales, truck stop, auto repair - minor and tire and battery stores and service, provided that:
- a. Regardless of whether the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of the use or business, the standards and requirements imposed by this Ordinance for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements which are imposed for the other uses of the property.
  - b. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or areas as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
  - c. The entire site, other than that taken up by a building, structure or plantings, shall be surfaced with blacktop or concrete to control dust and drainage which is subject to the approval of the City Engineer.
  - d. A drainage system subject to the approval of the City Engineer shall be installed.
  - e. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle as measured from the center of said street. Any light or combination of lights which cast light on residential property shall not exceed four (4) foot candles as measured from said property.
  - f. Wherever fuel pumps are to be installed, pump islands shall be installed and shall observe the required front yard setback, of which fifteen (15) feet or more shall be landscaped.
  - g. At the boundaries of a residential district, a strip of not less than five (5) feet shall be landscaped and screened in compliance with Section 1107.03 of this Ordinance.
  - h. Each light standard shall be landscaped.
  - i. Parking and car magazine storage space shall be screened from view of abutting residential districts in compliance with Section 1107.03 of this Ordinance.



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- j. Vehicular access points shall create a minimum of conflict with through traffic movement, shall comply with Section 1107.12 of this Ordinance and shall be subject to the approval of the City Engineer.
  - k. Provisions are made to control and reduce noise.
  - l. No outside storage except as allowed in compliance with Section 1107.08 of this Ordinance.
  - m. All fuel storage tanks shall be placed in conformance with Minnesota Pollution Control Agency rules and State fire codes and so located that tanks may be serviced without the vehicle extending beyond the property line.
  - n. Public address systems shall not be audible from any residential parcel.
4. Convenience Store With Gasoline. Grocery and/or food operations, with convenience gas (no vehicle service or repair), provided that:
- a. Convenience/deli food is of the take-out type only and that no provisions for seating or consumption on the premises is provided. Furthermore, that the enclosed area devoted to such activity, use and merchandise shall not exceed fifteen (15) percent of the gross floor area.
  - b. That any sale of food items is subject to the approval of the State Health Inspector who shall provide specific written sanitary requirements for each proposed sale location based upon applicable State and County Regulations.
  - c. All fuel storage tanks shall be placed in conformance with Minnesota Pollution Control Agency rules and State fire codes and so located that tanks may be serviced without the vehicle extending beyond the property line.
  - d. Wherever fuel pumps are to be installed, pump islands shall be installed and shall observe the required front yard setback, of which fifteen (15) feet or more shall be landscaped.
  - e. A protective canopy located over pump island may be an accessory structure on the property and may be located twenty (20) feet or more from the front lot line, provided adequate visibility is provided both on and off site is maintained.
  - f. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or areas as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot. All sides of the principal and accessory structures are to have essentially the same or a coordinated, harmonious finish treatment.
  - g. The entire site, other than that taken up by buildings or plantings, shall be surfaced with blacktop or concrete to control dust and drainage which is subject to the approval of the City Engineer.
  - h. At the boundaries of the lot, a strip of not less than five (5) feet shall be landscaped and screened in compliance with Section 1107.03 of this Ordinance.
  - i. Each light standard shall be landscaped. All lighting shall be hooded

and so directed that the light source is not visible from the public right-of-way or from an abutting residence. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle as measured from the center of said street. Any light or combination of lights which cast light on residential property shall not exceed four (4) foot candles as measured from said property.

- j. Vehicular access points shall create a minimum of conflict with through traffic movement, and shall be subject to the approval of the City.
- k. An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles.
- l. Public address systems shall not be audible from any residential parcel.
- m. No outside storage except as allowed in compliance with Section 1107.08. An enclosed screened area is to be provided for rubbish and dumpsters.

5. Garden and landscaping services provided that:

- a. The architectural appearance and functional plan of the building and site shall not be so dissimilar to existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
- b. The entire site other than that taken up by a building, structure or plantings shall be surfaced with blacktop or concrete to control dust and drainage which is subject to the approval of the City Engineer.
- c. At the boundaries of the lot, a strip of not less than five (5) feet shall be landscaped and screened in compliance with Section 1107.03 of this Ordinance.
- d. Each light standard shall be landscaped. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle as measured from the center of said street. Any light or combination of lights which cast light on residential property shall not exceed four (4) foot candles as measured from said property.
- e. Vehicular access points shall create a minimum of conflict with through traffic movement, and shall be subject to the approval of the City.
- f. An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles.
- g. No outside storage except as allowed in compliance with Section 1107.08. An enclosed screened area is to be provided for rubbish and dumpsters.
- h. There shall be no more than one (1) principal building for use as a green house.

6. Theaters provided that:

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- a. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or areas as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
  - b. That any sale of food items is subject to the approval of the State Health Inspector who shall provide specific written sanitary requirements for each proposed sale location based upon applicable State and County Regulations.
  - c. At the boundaries of the lot, a strip of not less than five (5) feet shall be landscaped and screened in compliance with Section 1107.03 of this Ordinance.
  - d. Each light standard shall be landscaped. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle as measured from the center of said street. Any light or combination of lights which cast light on residential property shall not exceed four (4) foot candles as measured from said property.
  - e. Vehicular access points shall create a minimum of conflict with through traffic movement, and shall be subject to the approval of the City.
  - f. An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles.
  - g. Parking areas shall be screened from view of abutting residential districts in compliance with Section 1107.03 of this Ordinance.
  - h. No outside storage except as allowed in compliance with Section 1107.08. An enclosed screened area is to be provided for rubbish and dumpsters.
7. Animal Hospitals provided that:
- a. All structures and parking lots must be landscaped in accordance with this Ordinance.
  - b. Noise controls shall be as required in noise control provisions of Section 1107.01 of this Ordinance.
  - c. The animals shall be confined within an enclosed building at all times except for supervised walks.
  - d. Parking areas shall be screened from view of abutting residential districts in compliance with Section 1107.03 of this Ordinance.
  - e. No outside storage except as allowed in compliance with Section 1107.08. An enclosed screened area is to be provided for rubbish and dumpsters.
8. Day Care Nursery Facilities provided that:
- a. Day care facility structure and operations shall be in compliance with State of Minnesota, Department of Welfare and Department of Human Services Regulations and be licensed accordingly.
  - b. The submittal of a site plan drawn to scale and dimensioned, displaying the information required by Section 1103.07 of this

Ordinance.

- c. With or without notice, the City hereby reserves the right upon issuing any day care facility conditional use permit to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this Section or any conditions additionally imposed.
- d. Each light standard shall be landscaped. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle as measured from the center of said street. Any light or combination of lights which cast light on residential property shall not exceed four (4) foot candles as measured from said property.
- e. Vehicular access points shall create a minimum of conflict with through traffic movement, and shall be subject to the approval of the City.
- f. Parking areas shall be screened from view of abutting residential districts in compliance with Section 1107.03 of this Ordinance.
- g. No outside storage except as allowed in compliance with Section 1107.08. An enclosed screened area is to be provided for rubbish and dumpsters.

9. Indoor Firing Range, as a principal or accessory use, subject to the following:

- a. The firing range shall not be located on any lot adjacent to an existing residential district, unless separated by a public right-of-way or alley.
- b. The use, occupancy, and construction of the building shall conform to the International Building Code.
- c. The building and method of operation shall comply applicable state and federal regulations.
- d. The building and method of operation shall conform to the applicable Minnesota Pollution Control Agency, Environmental Protection Agency, and OSHA standards for indoor ventilation, emission into the atmosphere, indoor sound levels, lead containment and outside noise standards.
- e. The design and construction of the firing range shall completely confine all ammunition rounds within the building and in a controlled manner. The design and construction of the firing range shall be certified by a registered engineer in the State of Minnesota. The certified plans shall include the specifications and construction of the bullet trap(s), ceilings, exterior and interior walls and floors. The certified plans shall state what type and caliber of ammunition the range is designed to totally confine.

- f. No ammunition shall be used in the range that exceeds the certified design and construction specifications of the firing range.
  - g. Firearms stored on the premises when the range is closed for business shall be stored in an acceptable gun safe or other secure locking device.
  - h. On-site supervision is required at all times by an adult who is an experienced range operator. The range operator shall be responsible for the conduct of their place of business and the conditions of safety and order in the place of business and on the premises.
  - i. On-site instruction shall be given only by firearms instructors certified within the prior five years by an organization or government entity that has been approved by the Minnesota Department of Public Safety. Current certificates for firearms instructors shall be on display in a conspicuous location in the premises and available for public inspection.
  - j. Minors shall not be allowed in the range unless accompanied by an adult at all times. This provision shall not be interpreted to prohibit minors from participating in a firearm safety class which is supervised by an adult instructor.
  - k. In multi-tenant buildings, the firing range shall be soundproofed to prevent the sound from being heard by persons in adjoining units.
  - l. Hours of operation are limited to between 7 a.m. and 10 p.m.
10. Indoor self-storage as a principal or accessory use, provided:
- a. All storage compartments shall be accessed from the interior of the building. Exterior access to storage compartments is prohibited.
  - b. No outdoor storage or overnight parking shall be allowed. This standard specifically includes, but is not limited to, cars, trucks, boats, recreational vehicles, rental vehicles, trailers, tenant goods or wares, or loaner trucks/trailers for tenant use.
  - c. Screening shall be provided when the use abuts a residential use. Screening shall be in compliance with Section 1107.03 of this Ordinance.
  - d. Plumbed restrooms shall be provided inside the facility.
  - e. Storage of potentially dangerous or hazardous items, combustibles, flammables, or explosives is prohibited.

- f. Standards contained in Section 1107.17 of the City Code entitled, Highway Commercial and Industrial Design Standards, shall apply.

11. Detached commercial and industrial accessory structures, provided:

- a. Accessory structures shall be visibly smaller in foundation size, total square footage, scale, use, and intensity when compared to the principal structure.
- b. Accessory structures shall be associated with the principal use of the property.
- c. Accessory structures shall not be located closer to any street than the principal structure. Accessory structures shall meet lot requirements and setbacks of the assigned zoning district.
- d. Accessory structures shall be located on the same lot or parcel as the principal structure. Accessory structures shall not be constructed prior to the construction of a principal structure. No more than two accessory structures are allowed per lot.
- e. Screening shall be provided when the subject lot or parcel abuts a residential use. Screening shall be in compliance with Section 1107.03 of this Ordinance.
- f. Plumbing is not allowed, unless water and sanitary connections are made after the meter in the principal structure. Independent water service lines or water connections to existing service lines at points prior to the meter are prohibited in all instances. Sanitary connection requirements may be altered in instances where gravity flow is not attainable from the principal structure. Water and sanitary sewer service lines shall not at any time cross shared lot lines.
- g. Access to the accessory structure shall be hard-surfaced and internal to the site.
- h. Standards contained in Section 1107.17 of the City Code entitled, Highway Commercial and Industrial Design Standards, shall apply to the accessory structure.

*(Ord. 17-02, Section 1103.08, Adopted March 20, 2017.)  
(Ord. 22-05, Section 1103.08, Adopted March 21, 2022.)*

C. Conditional Uses in the B-3 Central Business District.

The following are conditional uses in the B-3 District requiring a conditional use permit based upon procedures set forth and regulated by Section 1103.08 of this Ordinance.

- 1. Bed and Breakfast Establishments, provided that:

- a. The owner or resident manager of the establishment shall operate and reside at the facility.
- b. The establishment shall conform to State Health and Building Code requirements.
- c. The establishment's owner must furnish evidence that licenses required by the State of Minnesota either have been issued or will be issued before commencing operation.
- d. The establishment shall be limited to five (5) guest rooms.
- e. Guests shall not stay at the establishment for more than thirty (30) days within any ninety (90) day period.
- f. The establishment shall provide a minimum of one (1) off-street automobile parking space for each guest room and one (1) off-street automobile parking space for the owner of the establishment.
- g. Identifying signs for the establishment to be no more than twenty (20) square feet in total, located on the building and consistent with the character of the building.
- h. No cooking or cooking facilities shall be allowed or provided in the establishment's guest rooms.
- i. Meals shall be provided only to overnight guests of the establishment. The City Council may approve, at its sole discretion, the provision of meals for non-guests for special events such as banquets or family gatherings, but only if adequate parking is provided and no increase in traffic volume will occur as a result of the special event. Approval may be limited to a single event or on an annual basis.
- j. The City Council may at its sole discretion, waive parking and other non-health and safety requirements of land use and zoning ordinances of the City for facilities listed on the National Register of Historic Places.

#### D. Conditional Uses in the I-2 General Industrial District.

The following are conditional uses in the I-2 District requiring a conditional use permit based upon procedures set forth and regulated by Section 1103.08 of this Ordinance.

1. Open or outdoor service, sale and rental as a principal or accessory use, provided that:
  - a. Outside services, sales and equipment rental connected with the principal use is limited to fifty (50) percent of the gross floor area of the principal structure.
  - b. Outside sales areas are fenced and screened from view of neighboring residential uses or an abutting Residential District in compliance with Section 1107.03 of this Ordinance.
  - c. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with Section 1107.01 of this Ordinance.
  - d. The use does not take up parking space as required for conformity to





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be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original conditional use permit. 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.

- B. A Conditional Use shall expire if that use shall cease for more than 12 consecutive months.
- C. Inspections may be conducted at least annually and an update provided to the City Council to determine compliance with the terms of a Conditional Use Permit.
- D. Failure to comply with any condition set forth in a Conditional Use Permit shall be a misdemeanor and shall also constitute sufficient cause for the revocation of the Conditional Use Permit by the City Council following a public hearing. The property owner shall be notified in advance of the City Council's review of the Permit. A public hearing scheduled to consider the revocation of a Conditional Use Permit shall be conducted pursuant to Section 1103.08 SUBD 3.

#### 1103.08 SUBD. 7. USES BY CONDITIONAL USE PERMIT NOT NONCONFORMING USES.

Uses authorized by a Conditional Use Permit under Section 1103.08 shall not be deemed a Nonconforming Use, but shall without further action be considered a Conforming Use, but only in accordance with the conditions set forth in the Conditional Use Permit.

1103.08 SUBD. 8. FILING. A certified copy of any Conditional Use Permit shall be filed with the Scott County Recorder or Registrar of Titles and shall include a legal description of the subject property.

#### 1103.08 SUBD. 9. PERFORMANCE SECURITY.

1. Except in the case of non-income producing residential property (excluding relocated structures), upon approval of a conditional use permit the City shall be provided, where deemed necessary, with a surety bond, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the City.
2. The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or City 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.
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 ordinances of the City has been issued by the City Building Official.

4. Failure to comply with the conditions of the conditional use permit or the ordinances of the City shall result in forfeiture of the security.

*(Ord. 14-06, Section 1103.08, Adopted October 20, 2014).*

*(Ord. 17-02, Section 1103.08, Adopted March 20, 2017.)*

*(Ord. 18-01, Section 1103.08, Adopted February 20, 2018.)*

*(Ord. 20-04, Section 1103.08, Adopted February 18, 2020.)*

### **1103.09 PUBLIC HEARINGS.**

#### **1103.09 SUBD. 1. SETTING OF HEARINGS.**

For all requests brought before the City Council or the Planning Commission for which a public hearing is required by this Ordinance, the public hearing shall be held at a reasonable time as set by the City in the City Council Chambers, or such designated site.

#### **1103.09 SUBD. 2. NOTICE OF HEARINGS.**

1. Notice of public hearings shall be given not more than thirty (30) days and not less than ten (10) days before the hearing by publication at least once in the official newspaper of the City. Such notice shall include the time and place of the hearing, a description of the contents of the request to be heard and the address or location of the property to which the request applies.
2. In addition to the general notice to the public, separate notice by letter shall be required for all property owners residing within the area, and for a distance of three hundred fifty (350) feet from the boundaries of such area, where a request concerning property will be the subject of the hearing. Such notices shall be sent by the City and addresses taken from current City records shall be deemed sufficient for such notification.
3. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.

#### **1103.09 SUBD. 3. CONDUCT OF HEARING.**

Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, or by a written, signed letter.

#### **1103.09 SUBD. 4. REFERRAL BACK TO THE PLANNING COMMISSION.**

If, upon receiving said reports and recommendations of the Planning Commission, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council will 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.

**1103.10 ADMINISTRATION - CERTIFICATE OF OCCUPANCY.**

1103.10 SUBD. 1. REQUIREMENT.

No building or structure hereafter erected or moved shall be occupied or used in whole, or in part, for any purpose whatsoever until a certificate of occupancy has been issued by the Building Official stating that the building or structure complies with all of the provisions within this Ordinance and applicable state building code sections.

1103.10 SUBD. 2. APPLICATION.

Said certificate is applied for coincident with the application for a building permit and issued following satisfactory final inspection by the Building Official.

**1103.11 FEES, CHARGES AND EXPENSES.**

**SUBD. 1. ESTABLISHMENT.**

The City Council by ordinance shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, certificates of occupancy, conditional use permits, variances, amendments, site plan review, appeal application and other matters pertaining to this Ordinance. This schedule of fees shall be available in the office of the Zoning Administrator and may be altered by resolution of the City Council.

**SUBD. 2. PAYMENT REQUIRED.**

No application shall be reviewed until fees have been paid in full, nor shall any action be taken on proceedings before the Planning Commission, City Council or Board of Appeals until charges and fees have been paid in full.

### **1103.12 INTERIM USES.**

#### **1103.12. SUBD.01 PURPOSE.**

The purpose and intent of allowing interim uses are:

1. To allow use for a brief 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 by 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.

#### **1103.12. SUBD. 02 AUTHORITY.**

The City Council may, after review and recommendation by the Planning Commission, grant an interim use permit or overturn the vote of the Planning Commission with a two-thirds (2/3) vote.

Zoning regulations may permit the governing body to allow interim uses. The regulations may set conditions on interim uses. The governing body may grant permission for an interim use of property if:

- (1) the use conforms to the zoning regulations;
- (2) the date or event that will terminate the use can be identified with certainty;
- (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.

Any interim use may be terminated by a change in zoning regulations.

#### **1103.12.03 PROCEDURE.**

An application for an interim use permit shall be submitted to the Zoning Administrator. A nonrefundable application fee, as established by the City Council to cover administrative costs and costs of the hearing, shall accompany each application. The application shall contain the following information and any such additional information as requested by the Zoning Administrator:

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 three hundred fifty (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 surfaces).
  - f. Location and type of all proposed lights.
  - g. Curb cuts, driveways, number of parking spaces.
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.
    - f. Sanitary sewer and water plan with estimated use per day.
  3. Grading Plan:
    - a. Existing contours.
    - b. Proposed grading elevations.
    - c. Drainage configuration.
    - d. Storm sewer catch basins and invert elevations.
    - e. Spot elevations.
    - f. Proposed road profile.
  4. Landscape Plan:
    - a. Location of all existing trees including the type, diameter and potential removal.
    - b. Location, type and diameter of all proposed plantings.
    - c. Location and material used of all screening devices.
  5. Legal description of property under consideration.
  6. Proof of ownership of the land for which an interim use permit is requested.
- 1103.12.04 REVIEW.
1. The Planning Commission and City Council shall consider possible adverse affects of the proposed interim use. Their 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 has been found to be consistent with the official City Comprehensive Land Use 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 herein.
    - d. The proposed use will not tend to or actually depreciate the property values of 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.
    - f. Traffic generation by the proposed use is within capabilities of streets serving the property.

2. A public hearing shall be set, advertised and conducted by both the Planning Commission and City Council in accordance with Section 1103.09 of this Ordinance. When a Flood Plain District is involved, the Planning Commission shall submit to the Commissioner of Natural Resources a copy of the application for a proposed interim use permit sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

3. Within the time frame provided by Minnesota Statutes section 15.99 following receipt of the completed application, the City Council shall render its decision granting or denying the interim use permit. Such decision shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed interim use permit. Such plans and specifications shall remain a part of the permanent records of the City Council. The findings of fact shall specify the reason or reasons for granting or denying the interim use permit.

a. For an interim use permit adjacent to US Highway 169, State Highway, or Scott County right-of-way, the Zoning Administrator shall submit to the appropriate office a copy of the application for proposed interim use permit located in the highway right-of-way sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

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

#### 1103.12.04 LAPSE OF INTERIM USE PERMIT BY NON-USE.

Whenever within one (1) year after granting an interim use permit, the use as allowed by the permit shall not have been initiated 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 that has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original interim 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 interim use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

#### 1103.12.05 PERFORMANCE SECURITY.

1. Except in the case of non-income producing residential property (excluding relocated structures), upon approval of a interim use permit the City shall be provided, where deemed necessary, with a surety bond, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the interim use permit and the ordinances of the City.



2. The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or City Building Official's estimated costs of labor and materials for the proposed improvements or development. Said projects can be handled in stages upon the discretion of the City Engineer and Building Official.
3. The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the interim use permit and ordinances of the City has been issued by the City Building Official.
4. Failure to comply with the conditions of the interim use permit or the ordinances of the City shall result in forfeiture of the security.

*(Ord. 08-06, Section 1103.07 Subd. 1, Adopted October 20, 2008.)*

*(Ord 09-01, Section 1103.12, Adopted June 1, 2009.)*

*(Ord. 11-09, Section 1103.05, Subd. 1, 2, 3, Adopted September 19, 2011.)*

*(Ord. 14-06, Section 1103.04 Appeals, Adopted October 20, 2014.)*

*(Ord. 17-02, Section 1103.08, Adopted March 20, 2017.)*

*(Ord. 17-03, Section 1103.07, Adopted March 20, 2017.)*