

SECTION 3. ADMINISTRATION - AMENDMENTS (TEXT AND MAP)

Subdivision

- 3.01 Amendments to Zoning Ordinance
- 3.02 Procedures
- 3.03 Amendments - Initiation
- 3.04 Certification of Taxes Paid

3.01 AMENDMENTS TO ZONING ORDINANCE: The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties with interest and citizens shall have an opportunity to be heard. At least ten (10) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City. Any action taken pursuant to this section shall also be in compliance and accordance with the rules and regulations of the Department of Natural Resources, State of Minnesota, and the Federal Emergency Management Agency.

3.02 PROCEDURE: Pursuant to Minnesota Statutes 15.99, an application for an amendment shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. If applicable, processing of the application through required state or federal agencies shall extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant. Additional procedural requirements are as follows:

- A. Requests for rezoning (text or map) shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided by City Council resolution. Such application shall also be accompanied by fifteen (15) copies of detailed written and graphic materials fully explaining the proposed change, development of use and list of property owners located within one-half (1/2) mile of the subject property. Said property owners list shall be certified by the County or City. The request for amendment shall be placed on the agenda of the first possible Planning Commission meeting. The request shall be considered officially submitted when all the informational requirements are complied with.
- B. The applicant shall supply proof of title of the property for which the rezoning is requested, consisting of an abstract of title or registered property abstract currently certified together with any unrecorded documents whereby the petitioner acquire a legal ownership or equitable ownership interest or supply written authorization from the owner(s) of the property in question to proceed with the requested rezoning.

- C. Upon receipt of said application, the Zoning Administrator shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing and report its findings and recommendations to the City Council. Notice of said hearing shall consist of a legal property description and description of the request, and shall be published in the official newspaper at least ten (10) days prior to hearing and written notice of said hearing shall be mailed at least ten (10) days prior to all owners of land within one-half (1/2) mile of the subject property.
- D. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.
- E. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.
- F. The Planning Commission and City Council shall consider possible adverse effects of the proposed amendment. Its judgement shall be based upon (but not limited to) the following factors:
 - 1. The proposed action has been considered in relation to the specific polices and provisions of and has been found to be consistent with the official City Comprehensive Plan.
 - 2. The proposed use is or will be compatible with present and future land uses of the area.
 - 3. The proposed use conforms with all performance standards contained herein.
 - 4. The proposed use will not tend to or actually depreciate the area in which it is proposed.
 - 5. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
 - 6. The proposed use is in conformance with the City's water connection and assessment policies or is contiguous to existing development of a similar zoning.
- G. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.

Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

- H. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
- I. The Planning Commission shall recommend approval or denial of the request.
- J. The City Council shall not act upon an amendment until they have received a report and recommendation from the Planning Commission or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.
- K. Upon receiving the report and recommendation of the Planning Commission, the Zoning Administrator shall place the report and recommendation on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- L. Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary.
- M. 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.
- N. Approval of a proposed amendment shall require a majority vote of the City Council. Approval of a proposed zoning map amendment which changes all or part of the existing classification of a zoning district from residential to either business, industrial, or planned unit development that allows for commercial or industrial uses shall require a four-fifths (4/5) vote of the City Council.
- O. 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.
- P. 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 from the date of its denial, unless a decision to reconsider such matter is made by the City Council.

3.03 AMENDMENTS - INITIATION: The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Ordinance. The procedural requirements of Sections 3.02.A and 3.02.B of this Ordinance shall not apply to such proposed amendments except to the extent required by State Statute. Any person owning real estate or having documented interest therein, within the City, may initiate a request to amend the district and map boundaries or text of this Ordinance as to affect the same real estate.

3.04 CERTIFICATION OF TAXES PAID: Prior to approving an application for an amendment, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or utility fees due upon the parcel of land to which the rezoning application relates.

SECTION 4. ADMINISTRATION - CONDITIONAL USE PERMITS

Subdivision

- 4.01 Purpose
- 4.02 Procedure
- 4.03 Information Requirement
- 4.04 General Performance Standards
- 4.05 Lapse of Conditional Use Permit by Non-Use
- 4.06 Performance Security
- 4.07 Conditional Use Permits - Initiation
- 4.08 Certification of Taxes Paid

4.01 PURPOSE: The purpose of a conditional use permit is to provide the City of St. Augusta with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health, and safety. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining streets, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

4.02 PROCEDURE: Pursuant to Minnesota Statutes 15.99, an application for a conditional use permit shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. If applicable, processing of the application through required state or federal agencies extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant. Additional procedural requirements are as follows:

- A. Request for conditional use permits, as provided within this Ordinance shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by City Council resolution. Such application shall also be accompanied by fifteen (15) copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a list of property owners located within one-quarter (1/4) mile of the subject property, obtained from and certified by Stearns County or the City. The request for conditional use permit shall be placed on the agenda of the first possible Planning Commission meeting. The request shall be considered as being officially submitted when all the information requirements are complied with.
- B. The applicant shall supply proof of title and the legal description of the property for which the conditional use permit is requested, consisting of an abstract of title or

registered property abstract currently certified together with any unrecorded documents whereby the petitioners acquire a legal ownership or equitable ownership interest or supply written authorization from the owner(s) of the property in question to proceed with the requested conditional use permit.

- C. Upon receipt of said application, the Zoning Administrator shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description and description of the request, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within one-quarter (1/4) mile of the boundary of the property in question.
- D. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.
- E. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.
- F. No conditional use shall be recommended by the Planning Commission or granted by the City Council unless all the following findings are made:
 - 1. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
 - 2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.
 - 3. That adequate utilities, access streets, drainage, and other necessary facilities have been or will be provided for the proposed conditional use.
 - 4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed conditional use.
 - 5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result from the

proposed conditional use.

6. That proper facilities are or will be provided which would eliminate any traffic generation or traffic hazard which may result from the proposed conditional use.
 7. That there is a demonstrated need for the proposed use.
 8. That the proposed use is in compliance with any land use plan adopted by the City.
 9. That the affected property does not contain any wetlands or public waters over which the United States, the State of Minnesota, or their respective agencies or political subdivisions have control or jurisdiction, or which are otherwise regulated by the United States, the State of Minnesota, or their respective agencies or political subdivisions.
- G. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
- H. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
- I. The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the Ordinance.
- J. The City Council shall not grant a conditional use permit until they have received a report and recommendation from the Planning Commission or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.
- K. Upon receiving the report and recommendation of the Planning Commission, the Zoning Administrator shall place the report and recommendation on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- L. Upon receiving the report and recommendation of the Planning Commission, the City Council shall have the option to set and hold a public hearing if deemed

necessary and shall make a recorded finding of fact and may impose any condition it considers necessary to protect the public health, safety and welfare.

- M. 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 (1) time on a singular action.
- N. Approval of a request shall require passage by a majority vote of the entire City Council.
- O. Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for the conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by the City Council.
- P. If a request for a conditional use permit receives approval of the City Council, the applicant shall record such with the County Registrar of Titles. The applicant, immediately upon recording such or as soon as is reasonably possible, shall furnish the City proof of recording. No building permits for the property in question will be granted until such proof of recording is furnished to the City.

4.03 INFORMATION REQUIREMENT: The information required for all conditional use permits shall be as specified in Section 10.06 of this Ordinance.

4.04 GENERAL PERFORMANCE STANDARDS: As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but not limited to, the following general performance standards and criteria:

- A. The use and the site in question shall be served by a street of sufficient capacity to accommodate the type and volume of traffic which would be generated.
- B. The site design for access and parking shall minimize internal as well as external traffic conflicts and shall be in compliance with Section 20 of this Ordinance.
- C. If applicable, a pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.

- D. Adequate off-street parking and off-street loading shall be provided in compliance with Sections 20 and 21 of this Ordinance.
- E. Loading docks and drive-up facilities shall be positioned so as to minimize internal site access problems and maneuvering conflicts, to avoid visual or noise impacts on any abutting residential use or district, and are in compliance with Section 21 of this Ordinance.
- F. Whenever a non-residential use abuts a residential use or district, a buffer area with screening and landscaping shall be provided in compliance with Section 15.07 of this Ordinance.
- G. General site screening and landscaping shall be provided in compliance with Section 15.07 of this Ordinance.
- H. All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses or districts, and shall be in compliance with Section 15.10 of this Ordinance.
- I. Potential exterior noise generated by the use shall be identified and mitigation measures as may be necessary shall be imposed to insure compliance with Section 15.14 of this Ordinance.
- J. The site drainage system shall be subject to the review and approval of the City Engineer.
- K. The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and area so as to cause impairment of property values or a blighting influence. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.
- L. Provisions shall be made for an interior location for recycling and trash handling and storage or an outdoor, enclosed receptacle area shall be provided in compliance with Section 15.15 of this Ordinance.
- M. All signs and informational or visual communication devices shall be in compliance with Section 31 of this Ordinance.
- N. The use and site shall be in compliance with any federal or state laws or regulations which are applicable and any related permits are obtained and documented to the City.

- O. Any applicable business licenses mandated by City regulations are approved and obtained.
- P. The hours of operation may be restricted when there is potential negative impact upon a residential use or district.
- Q. The use complies with all applicable performance standards of the zoning district in which it is located.

4.05 LAPSE OF CONDITIONAL USE PERMIT BY NON-USE: Whenever within one (1) year after granting a conditional 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 conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

4.06 PERFORMANCE SECURITY:

- A. Except in the case of non-income producing residential property (excluding related structures), upon approval of a conditional use permit the City shall be provided, where deemed necessary, with an irrevocable letter of credit, cash escrow, certificate of deposit payable to the City, 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.
- B. The security shall be in the amount equal to one hundred fifty (150) percent of the City Engineer's, City Building Official's, or City Council'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.
- C. 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 regulations of the City has been issued by the City Building Official.
- D. Failure to comply with the conditions of the conditional use permit or the regulations of the City shall result in forfeiture of the security.

4.07 CONDITIONAL USE PERMITS - INITIATION: The City Council or Planning Commission may, upon their own motion, initiate a request for a conditional use permit in conformance with the provisions of this Ordinance. Any person owning real estate or having documented interest therein, within the City may initiate a request for a conditional use permit for real estate in conformance with the provisions of this Ordinance.

4.08 CERTIFICATION OF TAXES PAID: Prior to approving an application for a conditional use permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or utility fees due upon the parcel of land to which the conditional use permit application relates.

SECTION 5. ADMINISTRATION - INTERIM USE PERMITS

Subdivision

- 5.01 Purpose and Intent
- 5.02 Procedure
- 5.03 General Standards
- 5.04 Termination
- 5.05 Certification of Taxes Paid

5.01 PURPOSE AND INTENT: The purpose and intent of allowing interim uses is:

- A. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
- B. 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.
- C. 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.

5.02 PROCEDURE: Uses defined as interim uses which do not presently exist within a respective zoning district shall be processed according to the standards and procedures for a conditional use permit as established by Section 4 of this Ordinance.

5.03 GENERAL STANDARDS: An interim use shall comply with the following:

- A. Meet the standards of a conditional use permit set forth in Section 4 of this Ordinance.
- B. Conform to the applicable general performance standards of Section 4.04 of this Ordinance.
- C. The use is allowed as an interim use in the respective zoning district.
- D. The date or event that will terminate the use can be identified with certainty.

- E. The use will not impose additional unreasonable costs on the public.
- F. The user agrees to any conditions that the City Council deems appropriate for permission of the use.

5.04 TERMINATION: An interim use shall terminate on the happening of any of the following events, whichever occurs first:

- A. The date stated in the permit.
- B. Upon violation of conditions, as determined by the City Council and under which the permit was issued.
- C. Upon change in the City's zoning regulations which renders the use non-conforming.
- D. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

5.05 CERTIFICATION OF TAXES PAID: Prior to approving an application for an interim use permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the interim use permit application relates.

**SECTION 6. ADMINISTRATION - ADMINISTRATIVE PERMITS
AND APPROVALS**

Subdivision

- 6.01 Purpose
- 6.02 Administrative Permits
- 6.03 Non-Permit Approvals

6.01 PURPOSE: The purpose of this section is to establish regulations and procedures for the processing and consideration of activities allowed by administrative permit, and of matters requiring the approval of the Zoning Administrator with the goal of protecting the health, safety, and welfare of the citizens of the City.

6.02 ADMINISTRATIVE PERMITS:

A. Procedure:

1. Application for an administrative permit shall be filed by the property owner or designated agent with the Zoning Administrator on forms to be provided by the City.
2. The application shall be accompanied by a non-refundable fee as set forth by a resolution of the City Council. Applications for amending permits shall be accompanied by a non-refundable fee as set forth by resolution of the City Council for administrative permits.
3. The Zoning Administrator shall review the application and related materials and shall determine that the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Ordinance.
4. The Zoning Administrator shall consider possible adverse effects of the proposed events or activity. Judgment shall be based upon (but not limited to) the following factors:
 - a. Compliance with and effect upon the Comprehensive Plan and public facilities plans.
 - b. The establishment, maintenance or operation of the use, event or

activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.

- c. The use, event, or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
 - d. The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
 - e. Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.
 - f. The use, event or activity shall, in all other respects, conform to the applicable regulations of the district in which it is located.
 - g. The use, event or activity and site conform to all applicable performance standards of this Ordinance.
- 5. The Zoning Administrator shall make a determination on approval or denial of the administrative permit within sixty (60) days from the date of submission of a complete application.
 - 6. A written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Ordinance shall be attached to the permit.
 - 7. Determination of non-compliance with applicable codes, ordinances, and the standards in this subdivision shall be communicated to the applicant in writing and the application for the permit shall be considered denied; unless, within ten (10) days of the date of such notice, the applicant submits revised plans and/or information with which the Zoning Administrator is able to determine compliance.
 - 8. Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as set forth within Section 8 of this Ordinance.
- B. Information Requirement: The information required for all administrative permit applications shall include:

1. A concise statement describing the proposed use, event or activity, including the purpose, type of merchandise involved, dates and times of operation, number of employees involved, provisions for on-site security, provisions for on-site parking, and other pertinent information required by the Zoning Administrator to fully evaluate the application.
 2. A copy of the approved site plan for the property or an “as built” survey which accurately represents existing conditions on the site, including entrances and exits, bona fide parking and driving areas, and which accurately indicates any proposed temporary structures, including tents, stands, and signs.
 3. An accurate floor plan, when in the judgment of the Zoning Administrator, such a plan is necessary to properly evaluate the location of the event and the effectiveness of available entrances and exits.
 4. A copy of the current sales tax certificate issued by the State of Minnesota, if applicable.
 5. Information identified in Section 10.06 of this Ordinance, as may be applicable.
- C. Performance Standards: All uses, events or activities allowed by administrative permit shall conform to the applicable standards outlined in the zoning district in which such use, event or activity is proposed.
- D. Administration and Enforcement:
1. The Zoning Administrator shall keep a record of applications and administrative permits.
 2. A copy of all administrative permits issued shall be forwarded to appropriate staff as determined by the Zoning Administrator.
 3. Enforcement of the provisions of this paragraph shall be in accordance with Section 12 of this Ordinance. Violation of an issued permit or of the provisions of this section also shall be grounds for denial of future permit applications.
- E. Certification of Taxes Paid: Prior to approving an application for an administrative permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or utility fees due upon the parcel of land to which the administrative permit application relates.

6.03 NON-PERMIT APPROVALS: In cases where the Zoning Administrator is given approval authority without a requirement for an administrative permit, determinations shall be based upon the criteria outlined in Section 6.02.A.4 of this Ordinance.

SECTION 7. ADMINISTRATION - VARIANCES

Subdivision

- 7.01 Purpose
- 7.02 General Provisions and Standards
- 7.03 Procedures
- 7.04 Lapse of Variance
- 7.05 Performance Security
- 7.06 Certification of Taxes Paid

7.01 PURPOSE: The purpose of this section is to provide for deviations from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance.

7.02 GENERAL PROVISIONS AND STANDARDS:

- A. The City Council shall serve as the Board of Adjustment and Appeals.
- B. Conditions governing considerations of both major and minor variance requests:
 - 1. In considering all requests for a variance and in taking subsequent action, the City staff, the Planning Commission and the City Council shall make a finding of fact that the proposed action will not:
 - a. Impair an adequate supply of light and air to adjacent property.
 - b. Unreasonably increase the congestion in the public street.
 - c. Increase the danger of fire or endanger the public safety.
 - d. Unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of this Ordinance.
 - e. Violate the intent and purpose of the Comprehensive Plan.
 - f. Violate any of the terms or conditions of Item 2, below.
 - 2. A variance from the terms of this Ordinance shall not be granted unless it can be demonstrated that:

- a. Undue hardship will result if the variance is denied due to the existence of special conditions and circumstances which are peculiar to the land, structure or building involved:
 - 1) Special conditions may include exceptional topographic or water conditions or, in the case of an existing lot or parcel of record, narrowness, shallowness, insufficient area or shape of the property.
 - 2) Undue hardship caused by the special conditions and circumstances may not be solely economic in nature, if a reasonable use of the property exists under the terms of this Ordinance.
 - 3) Special conditions and circumstances causing undue hardship shall not be a result of lot size or building location when the lot qualifies as a buildable parcel.
 - b. Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance, or deny the applicant the ability to put the property in question to a reasonable use.
 - c. The special conditions and circumstances causing the undue hardship do not result from the actions of the applicant.
 - d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district.
 - e. The request is not a use variance.
 - f. Variance requested is the minimum variance necessary to accomplish the intended purpose of the applicant.
3. Application for a variance shall set forth reasons that the variance is justified in order to make reasonable use of the land, structure or building.
 4. Should the City Council find that the conditions outlined heretofore apply to the proposed lot or parcel, the City Council may grant a variance from the strict application of this Ordinance so as to relieve such difficulties or hardships to the degree considered reasonable, provided such relief may be

granted without impairing the intent of this Ordinance. In the case of major variance, the Planning Commission, based upon a report and recommendation by the City staff, shall have the power to advise and recommend such conditions related to the variance regarding the location, character and other features of the proposed building, structure, or use as it may deem advisable in the interest of the intent and purpose of the Ordinance.

7.03 PROCEDURE: Pursuant to Minnesota Statutes 15.99, an application for a variance shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. If applicable, processing of the application through required state or federal agencies shall extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant. Additional procedural requirements are as follows:

A. Minor Variances:

1. Purpose: The purpose of this section is to provide for an expeditious method of processing variance requests.
2. Qualifications: Requests qualifying as minor variances must meet one of the following criteria:
 - a. Cases where hardship to existing buildings or platted property are created as a result of public action or change in City regulations (exception: shoreland and wetland regulations).
 - b. Structure or setback deviations which are characteristics of and common to neighboring uses and which do not exceed five (5) feet.
3. Processing:
 - a. Requests for a minor variance shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. Such application shall also be accompanied by fifteen (15) copies of detailed written and graphic materials necessary for the explanation of the request.
 - b. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate and provide general assistance in preparing a recommendation on the action to the City

Council.

- c. The City shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure of any applicant to supply all necessary supportive information may be grounds for denial of the request.
- d. The City Council shall review the application and may upon its option conduct a public hearing (no notice or publication required) on the request. The City Council may also make a determination and require that the matter be processed as a major variance.
- e. The applicant or a representative shall appear before the City Council in order to answer questions concerning the proposed variance request.
- f. The City Council shall make findings of fact and shall decide whether to approve or deny a request for variance within forty (40) days after the public hearing on said request or forty (40) days after the date at which the matter was first considered.
- g. A variance of this Ordinance shall be by a majority vote of the entire City Council.
- h. All decisions by the City Council involving a variance request shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Stearns County District Court.
- i. If a request for variance receives approval of the City Council, the applicant shall record such with the County Registrar of Titles. The applicant, immediately upon recording such, or as soon as reasonably possible, shall furnish the City proof of recording. No building permits for the property in question will be granted until such proof of recording is furnished to the City.

B. Major Variances:

- 1. Classification: All variances which are not classified as “minor” shall be deemed “major” variances.

2. Processing:

- a. Request for variances, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by City Council resolution. Such application shall also be accompanied by fifteen (15) copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a list of property owners located within one-quarter (1/4) mile of the subject property, obtained from and certified by Stearns County or the City. The request for variance shall be placed on the agenda of the first possible Planning Commission meeting. The request shall be considered as being officially submitted when all the information requirements are complied with.
- b. Upon receipt of said application, the Zoning Administrator shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its finding and recommendations to the City Council. Notice of said hearing shall consist of a legal property description of request, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within one-quarter (1/4) mile of the boundary of the property in question.
- c. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.
- d. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.
- e. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure of an applicant to supply all necessary supportive information may be grounds for denial of the request.
- f. The applicant or representative thereof shall appear before the

Planning Commission to answer questions concerning the proposed variance.

- g. The Planning Commission shall make findings of fact and recommend approval or denial of the request. The Planning Commission shall reach a decision within sixty (60) days after the first regular meeting at which the variance request was considered by the Commission. The Commission's recommendation and the City staff's report shall be presented to the City Council.
- h. The City Council shall not grant a variance until they have received a report and recommendation from the Planning Commission or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.
- i. Upon receiving the report and recommendation of the Planning Commission, the Zoning Administrator shall place the report and recommendation on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- j. The City Council shall review the application and may at its option conduct a public hearing on the request.
- k. The City Council shall make findings of fact and approve or deny a request for variance within sixty (60) days after receipt of the Planning Commission's recommendation.
- l. A variance of this Ordinance shall be by a majority vote of the entire City Council.
- m. All decisions by the City Council involving a variance request shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Stearns County District Court.
- n. Whenever a variance for an amendment 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 the City Council.

- o. If a request for variance receives approval of the City Council, the applicant shall record such with the County Registrar of Titles. The applicant, immediately upon recording such, or as soon as reasonably possible, shall furnish the City proof of recording. No building permits for the property in question will be granted until such proof of recording is furnished to the City.

7.04 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 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 variance or appeal. 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 use the permitted in the variance or appeal. Such petition shall be presented to the City Council for decision.

7.05 PERFORMANCE SECURITY:

- A. Upon approval of a variance, the City shall be provided, where deemed necessary by the City Council, with an irrevocable letter of credit, cash escrow, certificate of deposit payable to the City Council, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance and City Ordinance provisions.
- B. The security shall be in the amount equal to one hundred fifty (150) percent of the City Engineer's, Building Official's, or City Council's estimated costs of labor and materials for the proposed improvements or development.
- C. The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance and City regulations has been issued by the Building Official.
- D. Failure to comply with the conditions of the variance or appeal and City regulations shall result in forfeiture of the security.
- E. Whenever a performance guarantee is imposed by the City, the applicant shall be required to enter into a performance agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the permit. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

7.06 CERTIFICATION OF TAXES PAID: Prior to approving an application for a variance, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or utility fees due upon the parcel of land to which the variance application relates.

SECTION 8. ADMINISTRATION - APPEALS

Subdivision

- 8.01 Board Designation
- 8.02 Applicability
- 8.03 Procedures
- 8.04 Stay of Proceedings
- 8.05 Appeal

8.01 BOARD DESIGNATION: The City Council shall serve as the Board of Adjustment and Appeals.

8.02 APPLICABILITY: An appeal shall only be applicable to an interpretation of legislative intent of provisions of this Ordinance. City staff opinions and evaluations as they pertain to the impact or result of a request are not subject to the appeal procedure.

8.03 PROCEDURES:

- A. An appeal from the ruling of an administrative officer of the City shall be made by the property owner or their agent within thirty (30) days after the making of the order being appealed.
- B. The property owner or their agent shall file with the City a notice of appeal stating the specific grounds upon which the appeal is made.
- C. Any appeal filed shall be comprehensive and include all matters subject to question. Subsequent appeals filed by the same individual or group which are intended to cause unjustifiable delay in the decision-making process shall not be accepted by the City.
- D. The filing of an appeal shall be accompanied by a fee as provided for by City Council resolution.
- E. The Board of Adjustment and Appeals shall make a finding of fact and its decision by resolution within forty-five (45) days from the date at which the City Council first considered the appeal.

8.04 STAY OF PROCEEDINGS: An appeal stays all proceedings in furtherance of the

action being appealed unless it is certified to the Board of Adjustment and Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of record on application, on notice to the City.

8.05 APPEALS FROM DECISIONS OF THE BOARD OF ADJUSTMENT AND APPEALS: Any person or persons of any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment and Appeals, shall have the right to seek review within thirty (30) days of the decision with a court of record of such decision in the manner provided by the laws of the State of Minnesota, and particularly Minnesota Statutes, Section 462, as such statute may be from time to time amended, supplemented or replaced.

SECTION 9. ENVIRONMENTAL REVIEW

Subdivision

- 9.01 Purpose
- 9.02 General Provisions
- 9.03 Environmental Assessment Worksheets (EAWs)
- 9.04 Environmental Impact Statements (EISs)

9.01 PURPOSE: The purpose of this section is to determine whether certain projects have or may have the potential for significant environmental effects and should undergo special procedures of the Minnesota Environmental Review Program.

9.02 GENERAL PROVISIONS:

- A. No development project shall be approved prior to review by the Zoning Administrator to determine the necessity for completion of an Environmental Assessment Worksheet (EAW) or Environmental Impact Statement (EIS). Procedures for EAWs and EISs are set forth in the Minnesota Environmental Quality Review Board (EQB) regulations for the Environmental Review Program authorized by Minnesota Statute 116D.04 and 116D.04S and specified in Minnesota Rules Parts 4410.0200 to 4410.7800.
- B. Environmental reviews (EAWs and EISs) shall be conducted as early as practical in the processing of a development project. Time delays in the normal permit process caused by the filing and review of the EAW or EIS shall not be considered part of the permit approval time requirements set forth within this Ordinance. Such delays shall be considered as additional required time for each required permit. The permit process for the proposed project may be continued from the point it was interrupted by the EAW/EIS process. No decision on granting a permit or other approval required to commence the project may be issued until the EAW/EIS process is completed.

9.03 ENVIRONMENTAL ASSESSMENT WORKSHEETS (EAWs):

- A. Purpose: The purpose of an EAW is to rapidly assess, in a worksheet format, whether or not a proposed action has the potential for significant environmental effects.
- B. Mandatory EAWs: The preparation of an EAW shall be mandatory for those

projects that meet or exceed the thresholds contained in the State Environmental Review Program regulations, Minnesota Rules 4410.4300, as may be amended.

- C. Discretionary EAWs: A discretionary EAW may be required when it is determined that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects. The Zoning Administrator may suggest and/or the City Council may require the preparation of a discretionary EAW if it is determined that a development project may have some significant environmental impact or when there is a perception of such, provided that the project is not specifically exempted by Minnesota Rules 4410.4600, as may be amended.
- D. Procedures:
 - 1. Preparation and Distribution:
 - a. If the Zoning Administrator determines that an EAW shall be prepared, the proposer of the project shall submit an "Application for Environmental Review" along with the EAW prepared in draft form. The applicant shall agree in writing, as a part of the application, to reimburse the City prior to the issuance of any permits for all reasonable costs, including legal and consultants' fees, incurred in preparation and review of the EAW.
 - b. Pursuant to Minnesota Rules 4410.1400, within thirty (30) days of submission of the Application for Environmental Review, the Zoning Administrator shall review the draft EAW for completeness and accuracy, add supplementary material if necessary and approve the EAW for distribution.
 - c. If the EAW is ordered to be prepared pursuant to the petition process of Minnesota Rules 4410.1100, the EAW must be prepared within twenty-five (25) working days of the date of that decision, unless an extension of time is agreed upon by the proposer of the project and the Zoning Administrator.
 - d. Within five (5) days of approving the EAW for distribution, the Zoning Administrator shall distribute copies of the EAW to the EQB for publication of the notice of availability of the EAW in the EQB Monitor. Copies shall be distributed at the same time to the official EAW distribution list maintained by the EQB staff. Within five (5) days of submission of the EAW to the EQB, the Zoning Administrator shall provide a press release to the City's official newspaper, containing notice of availability of the EAW for public review.

2. Neighboring Property Owner Notification:
 - a. Upon completion of the EAW for distribution, the Zoning Administrator shall provide mailed notice of the availability of the EAW and date of the meeting at which the Planning Commission will consider the matter to all property owners within at least five hundred (500) feet of the boundaries of the property which is the subject of the EAW. Said notice shall be mailed at minimum ten (10) days before the date of the Planning Commission meeting during which the EAW will be considered.
 - b. Failure of a property owner to receive notice shall not invalidate any such proceedings as set forth within this Ordinance.
3. Review by Planning Commission: During the thirty (30) day comment period that follows publication of the notice of availability of the EAW in the EQB Monitor, the Planning Commission shall review the EAW. The Commission shall make recommendations to the City Council regarding potential environmental impacts that may warrant further investigation before the project is commenced and the need for an EIS on the proposed project.
4. Decision by City Council: The City Council shall make its decision on the need for an EIS for the proposed project at its first meeting more than ten (10) days but not more than thirty (30) days after the close of the comment period. The Board shall base its decision on the need for an EIS and the proposed scope of an EIS on the information gathered during the EAW process and on the comments received on the EAW. Pursuant to Minnesota Rules 4410,1700, in deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:
 - a. Type, extent and reversibility of environmental effects.
 - b. Cumulative potential effects of related or anticipated future projects.
 - c. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority.
 - d. The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of EISs previously prepared on similar projects.

5. Within five (5) days of City Council's decision on the need for an EIS, notice shall be provided to all persons on the EAW distribution list, to all persons who commented in writing during the thirty (30) days comment period, to the EQB staff for publication of the decision in the EQB Monitor and to any person upon written request.
- E. Mitigation Measures: Any measures for mitigating that are considered by the City Council in making their EIS need decision may be incorporated as conditions for approval of conditional use permits, interim use permits, variances, planned unit development, and/or site plan requests as required by this Ordinance.

9.04 ENVIRONMENTAL IMPACT STATEMENTS (EISs):

- A. Purpose: The purpose of an EIS is to provide information for governmental units, the proposer of the project and other persons to evaluate proposed projects which have the potential for significant environmental effects, to consider alternatives to the proposed projects and to explore methods for reducing adverse environmental effects.
- B. Mandatory EISs: An EIS shall be prepared for any project that meets or exceeds the thresholds of any of the EIS categories listed in Minnesota Rules 4410.4400, as may be amended.
- C. Discretionary EISs: An EIS shall be prepared when the City Council determines that, based on the EAW and any comments or additional information received during the EAW comment period, the proposed project has the potential for significant environmental effects, or when the City Council and the proposer of the project agree that an EIS should be prepared.
- D. Procedures:
 1. All projects requiring an EIS must have an EAW on file with the City, which will be used to determine the scope of the EIS. All EISs shall be prepared according to the procedures and requirements of the State Environmental Review Program, Rules 4410.2100-4410.3000, as may be amended. The costs of preparation of an EIS shall be assessed to the project proposer in accordance with Minnesota Rules Parts 4410.6000 to 4100.6500, as may be amended.
 2. Any proposal, project or use on which an EIS is required shall be considered a conditional use as defined in Section 2.02 of this Ordinance and shall comply with the procedure for approval of a conditional use permit. Mitigating measures identified in the EIS shall be incorporated as conditions

of issuance of the conditional use permit.

SECTION 10. SITE PLAN REVIEW

Subdivision

- 10.01 Purpose
- 10.02 Exceptions to Review
- 10.03 Procedures
- 10.04 Certification of Taxes Paid
- 10.05 Evaluation Criteria
- 10.06 Information Requirement
- 10.07 Plan Modifications
- 10.08 Lapse of Approval
- 10.09 Site Improvement, Performance Agreement, and Security
- 10.10 Building and Other Permits
- 10.11 Inspections During Development

10.01 PURPOSE: The purpose of this section is to establish a formal site plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Ordinance.

10.02 EXCEPTIONS TO REVIEW: The following shall be excepted from the foregoing requirements:

- A. Agricultural developments in the A-1 and A-2 Zoning Districts.
- B. Single family detached dwellings.

10.03 PROCEDURES: 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 pursuant to Statute or a time waiver is granted by the applicant. If applicable, processing of the application through required state or federal agencies shall extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant. Additional City requirements are as follows:

- A. Application: An application for site plan approval shall be filed with the City for all developments (except for agricultural developments in A-1 and A-2 Zoning Districts and single family dwellings) within the City. Such application shall be filed with the Zoning Administrator on an official application form and shall be accompanied by a fee as provided for by the City Council resolution. The proposed site plan shall be placed on the agenda of the first possible new business Planning Commission meeting occurring after fourteen (14) days from the date of official submission. The

plan shall be considered as officially submitted only when all of the information and fee requirements are complied with.

B. Preliminary Site Plan:

1. Purpose. The purpose of the preliminary site plan is to provide a specific and particular plan upon which the Planning Commission will base its recommendation to the City Council and with which substantial compliance is necessary for the preparation of the final plan.
2. Schedule.
 - a. The developer shall meet with the Zoning Administrator and/or City staff to discuss the proposed development.
 - b. The developer shall submit to the Zoning Administrator the necessary application data in site plan form as required herein, and filing fee at least fourteen (14) days prior to the Planning Commission meeting on which the proposal is tentatively scheduled to be heard.
 - c. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate and provide general assistance in preparing a recommendation on the action to the City Council.
 - d. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to obtain expert testimony with the consent and at the expense of the applicant concerning operational factors; said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.
 - e. The applicant or a representative thereof shall appear before the Planning Commission to present the proposal and answer any questions concerning the proposed development.
 - f. The Planning Commission shall make a recommendation of approval or denial on the preliminary site plan to the City Council within sixty (60) days of the date of the initial Planning Commission meeting at which the case was heard. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.
 - g. The Planning Commission shall recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this Ordinance.

- h. Such recommendation shall be in writing and be accompanied by the report and recommendation of the City Engineer.
- i. The City Council shall not grant site plan approval until they have received a report and recommendation from the Planning Commission and the City Engineer. The City Council shall review all recommendations and approve or deny the application for site plan approval within thirty (30) days of the initial City Council meeting at which the case was heard.
- j. Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made a part of the permanent written record of the City Council meeting.
- k. Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact and may impose any condition it considers necessary to protect the public health, safety, and welfare.
- l. If, upon reviewing said reports and recommendations of the Planning Commission and City staff, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council 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 reason for referral. This procedure shall be followed only one time on a singular action.
- m. Whenever an application for site plan review has been considered and denied by the City Council, a similar application 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; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by the City Council.

C. Final Site Plan:

1. Purpose. The final site plan is to serve as a complete, thorough, and permanent public record of the manner in which the subject site is to be developed. It shall incorporate all prior approved plan revisions resulting from the site plan review process.
 2. Schedule. Upon receiving all required final approvals through the site plan review process, the developer shall prepare a final site plan reflecting all revisions and conditions of approval. Three (3) copies of this final site plan shall be submitted to the Zoning Administrator for review and approval.
 3. City staff shall review the final site plan for consistency with the conditions of approval outlined by the City Council. If all conditions for approval have been met, the Zoning Administrator shall grant final site plan approval. Failure to meet the specific conditions shall result in denial of final site plan approval.
 4. Any modifications of the proposal, not specified as a condition for approval by the City Council, shall result in review of the proposal by the Planning Commission and City Council pursuant to the procedures outlined in Section 10.03.B.2 of this Ordinance.
- D. If, after one (1) year from being granted site plan approval, the plan as permitted by the approval shall not have been initiated, then such approval shall become null and void unless a request by petition for an extension of time has been made to and granted by the City Council. Such extension shall be requested in writing thirty (30) days before the expiration of the original site plan approval. There shall be no charge for the filing of such petition.
- E. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the site plan approval. Such petition shall be presented to the City Council for a decision.

10.04 CERTIFICATION OF TAXES PAID: Prior to approving an application for a final site plan, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the site plan application relates.

10.05 EVALUATION CRITERIA: The Planning Commission and City Council shall evaluate the effects of the proposed site plans. This review shall be based upon, but not be limited to, compliance with the City Comprehensive Plan and provisions of the Zoning Ordinance.

10.06 INFORMATION REQUIREMENT: The information required for all site plan applications generally consists of the following items, and shall be submitted when requested and specified by the Zoning Administrator.

A. Site Plan:

1. Name and address of developer/owner.
2. Name and address of architect/designer.
3. Date of plan preparation.
4. Dates and description of all revisions.
5. Name of project or development.
6. Scale of plan (engineering scale only, at one (1) inch equals fifty (50) feet or less).
7. North point indication.
8. Lot dimension and area.
10. Required and proposed setbacks.
11. Location, setback and dimension of all buildings on the lot including both existing and proposed structures.
12. Location of all adjacent buildings, wells and septic systems located within one hundred (100) feet of the exterior boundaries of the property in question.
13. Location, number, and dimensions of existing and proposed parking spaces.
14. Location, number, and dimensions of existing and proposed loading spaces
15. Curb cuts, driveways.
16. Vehicular circulation.
17. Sidewalks, walkways.
18. Location and type of all proposed lighting.
19. Location of recreational and service areas.

20. Location of rooftop equipment and proposed screening.
21. Provisions for storage and disposal of waste, garbage, and recyclables.
22. Location of proposed well and sewage treatment systems.

B. Grading/Storm Water Drainage Plan:

1. Existing contours at two (2) foot intervals.
2. Proposed grade elevations, two (2) foot maximum intervals.
3. Drainage plan including configuration of drainage areas and calculations.
4. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
5. Spot elevations.
6. Proposed driveway grades.
7. Surface water ponding and treatment areas.
8. Erosion control measures.
9. Wetland boundaries.

C. Landscape Plan:

1. Planting Schedule (table) containing:
 - a. Symbols.
 - b. Quantities.
 - c. Common names.
 - d. Botanical names.
 - e. Sizes of plant material.
 - f. Root specification (bare root, balled and burlapped, potted, etc.)
 - g. Special planting instructions.

2. Location, type and size of all existing significant trees to be removed or preserved.
 3. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).
 4. Typical sections in details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like.
 5. Other existing or proposed conditions which could be expected to affect landscaping.
- D. Other Plans and Information: (May be submitted in combination pursuant to approval by the Zoning Administrator)
1. Legal description of property under consideration.
 2. Proof of ownership of the land for which a site plan approval has been requested.
 3. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
 4. "Typical" floor plan and "typical" room plan.
 5. Extent of and any proposed modifications to land within the Shoreland, Wetland, or Floodplain Overlay Districts as described and regulated in Sections 64, 65 and 66 of this Ordinance.
 6. Type, location and size (area and height) of all signs to be erected upon the property in question.
 7. Restrictive covenants.

10.07 PLAN MODIFICATIONS:

- A. Minor Changes: Proposed minor structural additions involving ten (10) percent or less of the total existing floor area and proposed minor site expansions or modifications involving ten (10) percent or less of the total existing site area which meet all ordinance requirements may be approved by the Zoning Administrator prior to a building permit being issued and shall not require Planning Commission or City Council review, subject to the following:
1. This Section shall apply in the cases of new developments which have received City Council plan approval, but for which building permits have yet to be taken; and this Section shall apply to existing developments on file

which have City Council approved site plans.

2. Compliance with all Ordinance requirements shall be construed to include all adopted policies and codes.
3. Any major variances from Ordinance and policy requirements shall be subject to the established review and hearing procedures for site plan and variance approval.
4. Plans submitted for minor structural additions or minor site alterations under the terms of this Section shall be the same as those required for site plan approval.
5. A copy of the plans approved under this Section shall be appropriately certified by the Zoning Administrator and placed on file with the City Council approved plans.

B. Major Changes:

1. Plans not qualifying as minor shall be classified as major.
2. An amended site plan involving major changes shall be applied for and administered in a manner similar to that required for a new site plan.

10.08 LAPSE OF APPROVAL:

- A. Unless otherwise specified by the Zoning Administrator or City Council as may be applicable, the site plan approval shall become null and void one (1) year after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the approved plan. The property owner or applicant shall have the right to submit an application for time extension in accordance with this section.
- B. An application to extend the approval of a site plan for up to an additional one (1) year shall be submitted to the Zoning Administrator not less than thirty (30) days before the expiration of said approval. Such an application shall state the facts of the request, showing a good faith attempt to utilize the site plan approval, and it shall state the additional time being requested to begin the proposed construction. The request shall be heard and decided by the Zoning Administrator prior to the lapse of approval of the original request. A request pertaining to a major project involving a longer period of time than one (1) year or a second request for a time extension shall be presented to the Planning Commission for recommendation and to the City Council for a decision.

- C. In making its determination on whether an applicant has made a good faith attempt to utilize the site plan approval, the Zoning Administrator or the City Council, as applicable, shall consider such factors as the type, design, and size of the proposed construction, any applicable restrictions on financing, or special and/or unique circumstances beyond the control of the applicant which have caused the delay.

10.09 SITE IMPROVEMENT PERFORMANCE AGREEMENT AND SECURITY:

- A. Upon City Council approval of a site plan and prior to the issuance of building permits or initiation of work on the proposed improvement or development, the developer shall execute a performance agreement setting out site improvement items and terms of completion of said items. The performance agreement shall be approved by the City Attorney.
- B. Except in the case of non-income producing residential property (excluding relocated structures), upon approval of the site plan, the City shall be provided, where deemed necessary, with an irrevocable letter of credit, cash escrow, certificate of deposit payable to the City, 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 site plan approval and the ordinances of the City.
- C. The security shall be in the amount equal to one hundred fifty (150) percent of the City Engineer's or City Building Official's estimated cost of labor and materials for the proposed improvements or development. Said project may be handled in stages upon the discretion of the City Engineer or Building Official.
- D. 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 regulations of the City have been issued by the City Building Official.
- E. Failure to comply with the conditions of the site plan approval or the regulations of the City shall result in forfeiture of the security.

10.10 BUILDING AND OTHER PERMITS: Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the final site plan has been approved and a properly executed performance agreement has been received, and upon application of the applicant pursuant to the applicable ordinances of the City, all appropriate officials for the City may issue building and other permits to the applicant for development, construction, and other work in the area encompassed by the final site plan provided, however, that no such permit shall be issued unless the appropriate official is first

satisfied that the requirements of all codes and ordinances which are applicable to the permit sought, have been satisfied.

10.11 INSPECTIONS DURING DEVELOPMENT:

A. Site Improvements:

1. Following preliminary site plan approval by the City Council and final site plan approval by the Zoning Administrator, the City Engineer shall specify those site improvement items requiring inspections and approval by the City.
2. Within thirty (30) days of such notice, the Board shall revoke the site plan approval or shall take such steps as it shall deem necessary to compel compliance with the final site plan as approved or shall require the landowner or applicant to seek an amendment of the final site plan.

B. Compliance with Overall Plan: Following final plan approval of a site plan, or a stage thereof, the Building Official shall, periodically until the completion of the development, review all permits issued, and construction undertaken and compare actual development with the approved site plan.

1. If the Building Official finds that development is not proceeding in accordance with the approved plan, he or she shall immediately notify the City Council.
2. Within thirty (30) days of such notice, the City Council shall either by the provisions of the Ordinance revoke the site plan approval or shall take such steps as it shall deem necessary to compel compliance with the final site plan as approved; or shall require the landowner or applicant to seek an amendment of the final site plan.

SECTION 11. CERTIFICATE OF OCCUPANCY

Subdivision

11.01 Certificate Required

11.02 Application

11.01 CERTIFICATE REQUIRED: Except for farm and residential buildings, no building or structure hereafter erected or moved, or that portion of an existing structure of building erected or moved shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy of zoning shall have been issued by the City Building Official stating that the building or structure complies with all of the provisions within this Ordinance and applicable state building code sections.

11.02 APPLICATION: Said certificate shall be applied for coincident with the application for a building permit, conditional use permit, interim use permit, and/or variance and shall be issued within ten (10) days after the City Building Official shall have found the building or structure satisfactory and given final inspection. Said application shall be accompanied by a fee as established by City Council resolution.