

SECTION 4. ADMINISTRATION - CONDITIONAL USE PERMITS

Subdivision

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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.