

Section 3 - Administration – Land Use And Amendment Processes And Procedures

Subdivision

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3.01 LAND USE AND AMENDMENTS PURPOSE

The purpose of the various available land use and amendment processes in the City of St. Augusta is as follows:

Process	Purpose
Amendment to Zoning Ordinance	The regulations, restrictions, and boundaries outlined in this Ordinance may from time to time be amended, supplemented, changed, or repealed; provided, however, that no such action may be taken until after a public hearing in relation to it, at which parties with interest and citizens shall have an opportunity to be heard.
Conditional Use Permits	Provide the City of St. Augusta with reasonable discretion in determining the suitability of certain designated uses for 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.
Interim Use Permits	<ol style="list-style-type: none"> 1. To allow use for a brief period until a permanent location is obtained or while the permanent location is under construction. 2. To allow a presently judged acceptable use by the City Council but that, with anticipated development or redevelopment, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district. 3. To allow a use that reflects the anticipated long-range change to an area and follows 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.

Process	Purpose
Variances	To provide for deviations from the literal provisions of this Ordinance in instances where their strict enforcement would cause a practical difficulty 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.

3.02 PROCEDURE:

A. Under Minnesota Statutes 15.99, Land Use Applications and Zoning Code Amendments are subject to the following procedural process as well as any action taken pursuant to this section shall also comply in accordance with the rules and regulations of the Department of Natural Resources, State of Minnesota, and the Federal Emergency Management Agency:

Process Step	Procedures for Zoning Amendments, Conditional Use Permits, Interim Use Permits, and Variances
Timeline For Decision	1. An application or amendment shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended pursuant to the Statute or a time waiver is granted by the applicant. If applicable, application processing through required state or federal agencies shall extend the review and decision-making period an additional sixty (60) days unless the applicant waives this limitation.
Application	2. Requests for these processes shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided by the 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 within one-half (1/2) mile of the subject property. The listed property owners 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.
Submissions	3. The applicant shall supply proof of title of the property for which the process is requested, consisting of an abstract of title or registered property abstract currently certified together with any unrecorded documents whereby the petitioner acquires 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.
Notice of Hearing	4. Upon receipt, 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 before the hearing, and written

Process Step		Procedures for Zoning Amendments, Conditional Use Permits, Interim Use Permits, and Variances	
		notice of said hearing shall be mailed at least ten (10) days before all owners of land within one-half (1/2) mile of the subject property.	
		Note: The failure of the property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.	
Preparation of Reports	5.	The Zoning Administrator shall instruct the appropriate staff to prepare technical reports where appropriate and provide general assistance in preparing a recommendation on the action to the City Council.	
Additional Requested Information	6.	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. The applicant's failure to supply all necessary supportive information may be grounds for denial of the request.	
Public Hearing	7.	The applicant or a representative thereof shall appear before the Planning Commission to answer questions about the proposed request.	
Recommendation to City Council	8.	The Planning Commission shall recommend approving or denying the request in the case of a Zoning Amendment.	
	9.	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 in the case of a Conditional Use Permit or Interim Use Permit.	
Council Action	10.	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.	
Receipt of Planning Commission Recommendation	11.	Upon receiving the Planning Commission's report and recommendation, the Zoning Administrator shall place them on the agenda for the next City Council meeting. Such reports and recommendations shall be entered into and made part of the permanent written record of the City Council meeting.	
Setting Secondary Hearing	12.	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.	
Referring to Planning Commission	13.	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	

Process Step Procedures for Zoning Amendments, Conditional Use Permits, Interim Use Permits, and Variances	
	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 once on a singular action.
Approval Threshold	<p>14. Approval of a request shall require passage by a majority vote of the City Council.</p> <p>15. Zoning Map Amendment that changes all or part of the existing classification of a zoning district from residential to 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.</p>
Approval Publication	16. The amendment shall not become effective until the City Council approves an ordinance reflecting said amendment and after said ordinance is published in the official newspaper.

B. Each application has a unique set of considerations on which their judgment shall be based on (but not limited to) the following factors:

Process	Considerations for Judgement
Amendment to Zoning Ordinance	<ol style="list-style-type: none"> 1. The proposed action has been considered in relation to the specific policies and provisions of and is consistent with the official City Comprehensive Plan. 2. The proposed use is or will be compatible with the area's present and future land uses. 3. The proposed use conforms with all performance standards contained herein. 4. The proposed use will not depreciate the area in which it is proposed. 5. The proposed use can accommodate existing public services and will not overburden the City's service capacity. 6. The proposed use conforms with the City's water connection and assessment policies or is contiguous to the existing development of a similar zoning.
Conditional Use Permits & Interim Use Permits	<ol style="list-style-type: none"> 1. That the conditional use will not be detrimental to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted. 2. The establishment of conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area. 3. 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.

Process	Considerations for Judgement
	<ol style="list-style-type: none"> 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. Proper facilities are or will be provided to eliminate any traffic generation or traffic hazard resulting from the proposed conditional use. 7. That there is a demonstrated need for the proposed use. 8. That the proposed use complies 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.
Variances	<p>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:</p> <ol style="list-style-type: none"> 1. Impair an adequate supply of light and air to adjacent property. 2. Unreasonably increases the congestion in the public street. 3. Increase the danger of fire or endanger public safety. 4. Unreasonably diminish or impair established property values within the neighborhood or in any way contrary to this Ordinance's intent. 5. Violate the intent and purpose of the Comprehensive Plan. 6. Violate any of the terms or conditions of Item 2 below. <p>A variance from the terms of this Ordinance shall not be granted unless it can be demonstrated that:</p> <ol style="list-style-type: none"> 1. Undue Practical difficulty will result if the variance is denied due to the existence of special conditions and circumstances that are peculiar to the land, structure, or building involved: <ol style="list-style-type: none"> a. 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 property shape. b. Undue hardship caused by the special conditions and circumstances may not be solely economic if a reasonable use of the property exists under the terms of this Ordinance. c. Special conditions and circumstances causing undue hardship shall not result from lot size or building location when the lot qualifies as a buildable parcel. 2. 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 reasonable use.

Process	Considerations for Judgement
	<ol style="list-style-type: none"> 3. The special conditions and circumstances causing the undue hardship do not result from the applicant's actions. 4. Granting the variance requested will not confer on the applicant any special privilege denied by this Ordinance to other lands, structures, or buildings in the same district. 5. The request is not a use variance. 6. Variance requested is the minimum variance necessary to accomplish the applicant's intended purpose. <p>Application for a variance shall set forth reasons that the variance is justified to use the land, structure, or building reasonably.</p>

3.03 APPEALS

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.

3.04 INITIATION

Upon their motion, the City Council or Planning Commission may initiate a request to amend the text or the district boundaries of this Ordinance or seek a land use application process. 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.

3.05 INFORMATION REQUIREMENT

The information required for all land use permits shall be specified in Section 10.06 of this Ordinance.

3.06 GENERAL 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:

Process	Standards
<p>Conditional Use Permit & Interim Use Permit</p>	<p>A street of sufficient capacity shall serve the use and the site in question, accommodating the generated traffic type and volume.</p> <p>The site design for access and parking shall minimize internal and external traffic conflicts and follow Section 20 of this Ordinance.</p> <ol style="list-style-type: none"> 1. If applicable, a pedestrian circulation system shall be clearly defined, and appropriate provisions shall be made to protect such areas from encroachment by parked or moving vehicles.

Process	Standards
	<ol style="list-style-type: none"> 2. Adequate off-street parking and off-street loading shall be provided in compliance with Sections 20 and 21 of this Ordinance. 3. Loading docks and drive-up facilities shall be positioned to minimize internal site access problems and maneuvering conflicts, to avoid visual or noise impacts on any abutting residential use or district, and to be in compliance with Section 21 of this Ordinance. 4. 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. 5. General site screening and landscaping shall be provided in compliance with Section 15.07 of this Ordinance. 6. All exterior lighting shall be directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses or districts, and shall comply with Section 15.10 of this Ordinance. 7. Potential exterior noise generated by the use shall be identified, and mitigation measures as necessary shall be imposed to ensure compliance with Section 15.14 of this Ordinance. 8. The site drainage system shall be subject to the review and approval of the City Engineer. 9. The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and areas as to impair property values or have a blighting influence. All sides of the principal and accessory structures must have the same or coordinated, harmonious exterior finish materials and treatment. 10. 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. 11. All signs and informational or visual communication devices shall comply with Section 31 of this Ordinance. 12. The use and site shall be in compliance with any applicable federal or state laws or regulations, and any related permits shall be obtained and documented for the City. 13. Any applicable business licenses mandated by City regulations are approved and obtained. 14. The hours of operation may be restricted when there is potential negative impact upon a residential use or district. 15. The use complies with all applicable performance standards of the zoning district in which it is located.
<p>Interim Use Permit</p>	<p>The use is allowed as an interim use in the respective zoning district.</p> <p>The date or event that will terminate the use can be identified with certainty.</p> <p>The use will not impose additional unreasonable costs on the public.</p> <p>The user agrees to any conditions that the City Council deems appropriate for permission of the use.</p>

3.07 PERFORMANCE SECURITY

Except in the case of non-income producing residential property (excluding related structures), upon approval of a conditional use permit and variance, 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 before the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the City.

The security shall equal 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 at the discretion of the City Engineer and Building Official.

The City shall hold the security until the proposed improvements or development is completed and the city building official issues a certificate of occupancy indicating compliance with the city's conditional use permit and regulations.

Failure to comply with the conditions of the conditional use permit or the city regulations shall result in forfeiture of security.

Whenever the city imposes a performance guarantee, the applicant must enter into a performance agreement with the city. This agreement authorizes the City to utilize the posted security and complete the stipulated work should the applicant fail to meet the permit's terms and conditions. The said agreement shall hold the City harmless for the completion of the work and address other matters as determined by the City Attorney.

3.08 CONDITIONAL USE AND VARIANCE LAPSE BY NON-USE

Whenever within one (1) year after granting a conditional use permit or variance, 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 the City Council has granted. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the original conditional use permit expires. There shall be no charge for filing such a 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.

3.09 REVOCATIONS AND TERMINATIONS:

The following procedure shall be followed in the event the Zoning Administrator has reason to believe that a property is not in compliance with the terms of a conditional use permit or interim use permit issued to the property:

Process	Terminating or Revoking Events
Conditional Use Permit & Interim Use Permit	<ol style="list-style-type: none"> 1. Violating any condition outlined in a conditional use permit shall violate both the permit and this Ordinance. 2. Failure to correct a violation within thirty (30) days of written notice by the Zoning Administrator shall be grounds to revoke a conditional use permit through the following procedure: <ol style="list-style-type: none"> a. The Zoning Administrator shall give written notice to the permit holder, advising that the conditional use permit may be revoked upon the conclusion of a public hearing. The written notice shall also contain the nature of the violation, the facts that support the allegation that a violation exists, and the date and time of the public hearing. b. The City Council shall hold a public hearing in the same manner as that required for a new conditional use permit, except that the Planning Commission need not consider the matter. Within sixty (60) days of closing the public hearing, the City Council shall revoke the conditional use permit if it is determined that a violation of the conditional use permit terms does exist, or it shall make a finding that a violation of such conditional use permit terms does not exist. The Zoning Administrator shall give written notice of the City Council’s decision to the permit holder
Interim Use Permit	<ol style="list-style-type: none"> 1. The date of expiration stated in the permit occurs. 2. Upon a change in the City’s zoning regulations, which renders the use non-conforming 3. The redevelopment of the use and property upon which it is located for permitted or conditional use as allowed within the respective zoning district.

3.10 CERTIFICATION OF TAXES PAID

Before approving an application, the applicant shall provide certification to the City that no delinquent property taxes, special assessments, interest, or utility fees are due on the parcel of land to which the application relates.

3.11 RECORDING OF NEW LAND WITH COUNTY

It is the expressed responsibility of the applicant to file the decision rendered by the city council and zoning administrator with the office of the county recorder for Stearns County. No permits will be issued on a subject property until proof of recording is submitted to the city.

3.12 MONUMENTS:

For this Ordinance, all international, federal, state, county, and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise locations, and it shall be the responsibility of the applicant to ensure that these markers are maintained in good condition during and following construction and development. All sections, one-quarter (1/4) section, and one-sixteenth (1/16) section corners shall be duly described and tied.