

ZONING CODE  
Chapter 6

6. Zoning Administration

- 6.010 Power Given to the City Council. The Council may on its own motion, or on request of the Planning Commission, or on petition of the affected property owners:
- (1) Change the zoning of a parcel of land from one classification to another.
  - (2) Change any of the regulations of this Code as to the use or platting of land in any district, or as to the restrictions upon buildings or structures therein, by amendment to this ordinance.
  - (3) Review site plans for multiple dwellings (3 or more units) commercial and industrial development and mandate the inclusion or alteration of elements of the plans to protect adjacent properties.
  - (4) Hold public hearings on rezonings and amendments.
  - (5) Hear and decide appeals by any person affected by any alleged error in any order, requirement, decision, or determination made by any administrative officer in the enforcement of this Code.
  - (6) Hear requests for variances from the literal provisions of this code in instances where their strict enforcement would cause undue hardship because of 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 the ordinance.
- 6.020 Limitations on Powers Given to the City Council. The following limitations shall apply to the exercise of the powers granted to the Council.
- (1) Economic considerations may be taken into account, but shall not, of themselves, be the sole reason for which the Council may grant a variance.
  - (2) No relief may be granted or action taken under the terms of this Chapter unless such relief can be granted without substantial detriment to the public and will not substantially change the intent and purpose of the comprehensive plan or this Code.
  - (3) For purposes of this Chapter, "hardship" shall mean the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this Code or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical condition, unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district.
- 6.025 Development Review Committee. A Development Review Committee (DRC) is hereby created to consist of the following personnel, for the following purposes, and with the following responsibilities:
- (1) Personnel. The DRC shall consist of the City Administrator, the City Planner, the Fire Chief and the City Engineer. Each person may assign a designee to act in his/her place.
  - (2) Purpose. The DRC shall be responsible for:
    - (a) Reviewing land use applications, maintaining a schedule for processing the application within the time frames of this Code and of State law, meeting with applicants, and soliciting comments of other City officials, including, but not limited to the Building Official, Fire Chief, Fire Marshall, and Public Works Director;
    - (b) Advising City Commissions and the Council as to land use applications.

- (3) Meetings. The DRC will normally meet on Tuesdays, but is not required to do so. Applicants are encouraged to determine when the DRC will discuss the application and to attend the DRC meeting, but the City will not be responsible for giving notice of such meetings.
- (4) Completeness of Application. Within fifteen (15) days of receiving an application, the DRC will review the same, determine whether the application is complete, and if not, notify the applicant, in writing, of what deficiencies exist.

6.030 Procedure for Amendments to this Code.

- (1) Generally. In accordance with the provisions of Minnesota State Statutes, the City Council may from time to time adopt amendments to the City Code. An amendment to this Code may involve changes in its text and wording, including but not limited to changes in the regulations regarding uses, setbacks, heights, lot areas, definitions, administration, and/or procedures. Code amendments do not, however, include the rezoning of property. Amendments may be initiated by the Council, the Planning Commission, or by petition of a person whose property would be affected by the amendment.
- (2) Application for Amendment. If an individual or other party initiates a request for an amendment to this Code the request must be made on a form provided by the City Clerk. The request must state the exact section of the Code proposed for amendment, the proposed substitute wording, and the reasons for requesting the amendment. Graphic material should also be submitted if it will assist in understanding the benefits of the amendment. The submittal and fees must be made to the City Clerk according to the license, permit, and application fee schedule approved by the City Council.
- (3) Notice of Hearing. No amendment to this Code shall be adopted until a public hearing has been held thereon by the City Council. A notice of the time, date, place and purpose of the hearings shall be published in the Official Newspaper at least 10 days prior to the date of the City Council hearing.
- (4) Review and Recommendation by Planning Commission. An amendment not initiated by the Planning Commission may be referred to the Commission by the City Council for study and recommendation. In its deliberations on the matter, the Commission shall consider oral or written statements from the petitioner, the public, City staff, and its own members. A written report shall be transmitted to the City Council by the City Planner on behalf of the Commission within 15 days after the Commission has made its decision. The report shall summarize the arguments for and against the proposed amendment and state the Commission's recommendation and vote tally.
- (5) Hearing and Decision by the City Council. The City Council shall, at its next regular meeting after receipt of the report and recommendation of the Planning Commission, set a date for a public hearing on the amendment request. In its deliberations on the matter, the Council shall consider oral or written statements from the petitioner, the public, City staff members, and its own members. The Council may deny the request for Code amendment by motion, approve it by resolution, or table it. If approved, the City Clerk shall revise the Code accordingly.

6.035 Procedure for Land Use Plan Amendments.

- (1) Generally. In accordance with the provisions of Minnesota State Statutes, the City Council may, from time to time, amend the Land Use Plan within the municipality. Changes to the Land Use Plan are for the purpose of meeting the land use needs of the residents in the City. Land Use Plan amendments may be initiated by the City Council, the Planning Commission, or by application of the owner of the property, to be considered for amendment.

- (2) Application for Land Use Plan amendment. An applicant for an amendment to the Land Use Plan shall obtain from the City Clerk and complete the proper application form. An applicant for a Land Use Plan amendment shall prepare and complete a Land Use Plan amendment application form approved by the City Council. The applicant shall present evidence to the City Clerk of ownership or some controlling interest in the property (e.g., option to purchase). The application shall be completed and submitted, along with the established fee, pursuant to the license, permit, and application fee schedule approved by the City Council. The Clerk shall require the owner of the property affected to furnish along with the application an Abstract or a Certified Property Certificate showing the property owners (and their mailing addresses) within 350-feet of the property. The Clerk shall make a copy of the Notice and a list of the owners and addresses to which the failure to receive notice by individual property owners shall not invalidate proceedings.
- (3) Notice of Hearing. No Land Use Plan Amendment may be adopted until public hearings have been held on the matter by the Planning Commission and by the City Council. A notice of the time, date, place, and purpose of the hearings shall be published in the official newspaper of the City of Vadnais Heights at least 10 days prior to the date of the City Council Hearing. A similar notice shall be mailed at least 10 days before the day of the first hearing to each owner of property situated wholly or partly within 350 feet of the property to which the Land Use Plan Amendment relates. The City Clerk shall be responsible for placing and mailing such notices.
- (4) Hearing and Recommendation by the Planning Commission. A Land Use Plan Amendment not initiated by the Planning Commission shall be referred to the Commission for study and public hearing. In its deliberations on the matter, the Commission shall consider oral or written statements from the applicant, the public, City staff, and its own members. The Commission may approve, disapprove, or table the Land Use Plan Amendment application. A written report shall be transmitted to the City Council by the Planning Commission. The report shall summarize arguments for and against the proposed amendment and state the Commission's recommendation and vote tally.
- (5) Hearing and Decision by the City Council. The City Clerk shall set a date for a public hearing on the Land Use Plan Amendment request. In its deliberations on the matter, the Council shall consider oral or written statements from the applicant, City staff, the public, and its own members. The Council may deny the application for land use plan amendment by motion, approve it by appropriate ordinance, or table it. If approved, the City Clerk shall submit the Land Use Plan Amendment to the Metropolitan Council for their review and comments. If approved by the Metropolitan Council, the City Clerk shall then revise the Land Use Plan accordingly.

6.040 Procedure for Rezoning.

- (1) Generally. In accordance with the provisions of Minnesota State Statutes, the City Council may from time to time change the zoning of parcels of land within the municipality. These changes in zoning classification are for the purpose of meeting the land use needs of the residents of the city in conformance with the City's Land Use Plan. Rezoning may be initiated by the City Council, the Planning Commission, or by application of the owner of the property to be considered for rezoning.
- (2) Application for Rezoning. An applicant for a rezoning shall obtain from the City Clerk and complete the proper application form. On the application form shall be indicated the legal description of the property, the present zoning classification, the proposed zoning classification, and the recommendation for use of this property by the City Land Use Plan. The applicant shall present evidence to the City Clerk of ownership or some controlling interest in the property (e.g., option to purchase). This application shall be

completed and submitted to the City Clerk along with the established fee according to the license, permit, and application fee schedule approved by the City Council. The Clerk shall require the owner of the property affected to furnish along with the application an abstractor's certified property certificate showing the property owners (and their mailing addresses) within 350 feet of the property. The Clerk shall make a copy of the notice and a list of the owners and addresses to which the notice was sent as a part of the record of the proceedings. The failure to receive notice by individual property owners shall not invalidate the proceedings.

- (3) Notice of Hearing. No rezoning may be adopted until public hearings have been held on the matter by the Planning Commission and by the City Council. A notice of the time, date, place, and purpose of the hearings shall be published in the official newspaper of the City of Vadnais Heights at least 10 days prior to the date of the Planning Commission hearing and at least 10 days prior to the date of the City Council hearing. A similar notice shall be mailed at least 10 days before the day of the first hearing to each owner of property situated wholly or partly within 350 feet of the property to which the rezoning relates. The City Clerk shall be responsible for placing and mailing such notices.
- (4) Hearing and Recommendation by the Planning Commission. A rezoning not initiated by the Planning Commission shall be referred to the Commission for study and public hearing. In its deliberations on the matter, the Commission shall consider oral or written statements from the applicant, the public, City staff, and its own members. The Commission may approve, disapprove, or table the rezoning application. A written report shall be transmitted to the City Council by the Planning Commission. The report shall summarize arguments for and against the proposed amendment and state the Commission's recommendation and vote tally.
- (5) Hearing and Decision by the City Council. The City Clerk shall set a date for a public hearing on the rezoning request. In its deliberations on the matter, the Council shall consider oral or written statements from the applicant, City staff, the public, and its own members. The Council may deny the request for rezoning by motion, approve it by appropriate ordinance, or table it. If approved, the City Clerk shall revise the Official City Zoning Map accordingly.
- (6) Notification of Council Action. The applicant shall be notified in writing of the action taken by the City Council. If the rezoning has been granted, the notification shall state the Zoning District to which land has been reclassified, the legal description of the property, and the date upon which the rezoning may lapse if not exercised as described above.
- (7) The Council recognizes that rezoning is ordinarily requested when an owner has present intent to either develop a property for a particular use or by stages under a phasing plan. If that latter, such phasing plan should be approved by the City Council at the time of rezoning with conditions including periodic progress review. If construction is not commenced within 12 months or within the phasing schedule as approved by the City Council, then the Council, may on its own initiative, commence proceedings under Section 6.040 to rezone the property back to its original classification.

#### 6.050 Procedure for Variances to this Code.

- (1) Generally. The City Council may allow a departure from the literal provisions of this Code pertaining to height or width of structures, the size of yard and open spaces, fences, and residential non-conforming uses in instances where their strict enforcement would cause practical difficulties because of 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 Code. Variances may be granted when the applicant for the variance establishes that there are practical difficulties

in complying with the official control. "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a practical difficulty if reasonable use for the property exists under the terms of this Code. Practical difficulties also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances may be granted for earth sheltered construction, when in harmony with this Code. The City Council may not permit as a variance any use that is not permitted under this Code for property in the zone where the affected person's land is located except where the Council is considering a variance from non-conforming use requirements under §6.110 on land zoned residential at the time it became non-conforming. The City Council may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling. The City Council may impose conditions in the granting of variances to insure compliance and to protect adjacent properties. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

- (2) Application for Variance. A request for a variance shall be commenced by filing a Council-approved application with the City Clerk, accompanied by a development plan showing such information as set forth in the Council approved variance application. The application shall be accompanied by a fee according to the license, permit, and application fee schedule approved by the City Council.
- (3) Notice of Proceedings. Notice of variance application shall be mailed at least 10 days prior to the Council meeting to each owner of property situated wholly or partly within 350 feet of the property to which the variance relates. The City Clerk shall be responsible for mailing such notices. For the purpose of giving mailed notice, the Clerk may require the owner of the property to furnish a certificate showing the property owners (and their mailing addresses) within 350 feet of the property.
- (4) Review and Decision by Council. In considering applications for variance, the Council shall consider the effect of the proposed variance upon the health, safety, and welfare of the community, traffic conditions, light and air, danger of fire, risk to the public safety, the effect on values of property in the surrounding area, and the effect of the proposed variance upon the City Comprehensive Plan. The Council shall hear oral or written statements from the applicant, the public, City staff, or its own members. If the Council determines by motion that the special conditions applying to the structure or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or structures in the district in which said land is located, that granting the proposed variance will not in any way impair health, safety, welfare, or in any other respect be contrary to the intent of this Code and the City Comprehensive Plan, and that the granting of such variance will not merely serve as a convenience to the applicant, but is necessary to alleviate demonstrable hardship, the Council may grant such variance and impose conditions and safeguards therein.
- (5) Time Limits. If construction is not commenced within one year from the time a variance has been granted by the Council, then the variance shall be null and void unless an extension is granted by the Council. Only one such extension shall be permitted and shall not be for more than six additional months. If a variance is granted as part of a special use permit, then construction shall commence in accordance with the time limit set forth in Section 6.070(6).

6.060 Procedure for Site Plan Approval. The City Council declares it necessary and appropriate to require site plan approval of development in certain districts to preserve and promote attractive, well-planned stable urban conditions. This includes all proposed multiple-family dwellings (3 or more units), commercial and industrial developments, and all proposed developments in the Water Management Overlay District. Site Plan Approval by the City Council must be obtained before a Building Permit is issued.

- (1) Application for Site Plan Approval. Applications for Site Plan Approval shall be submitted to the City Clerk a fee, and shall include all information listed on the Site Plan Application pursuant to the schedule adopted by the City Council. The application shall be accompanied by a fee according to the license, permit, and application fee and approved by the City Council. The application shall submitted by the responsible party and the land owner must sign the Application form.
- (2) The site plan may be required by the Clerk to contain the following:
  - (a) location, identification and dimension of existing and proposed:
    - (i) existing and proposed topographic contours at a minimum interval of two feet,
    - (ii) adjacent streets and street rights-of-way,
    - (iii) on-site street and street rights-of-way,
    - (iv) utilities and utility rights-of-way easements:
      - (1) electric
      - (2) natural gas
      - (3) telephone
      - (4) water
      - (5) sewer (sanitary and storm)
    - (v) buildings and structures,
    - (vi) parking facilities,
    - (vii) water bodies,
    - (viii) surface water holding ponds, drainage ditches, and drainage patterns,
    - (ix) the location of tree cover, including the designation of trees of 15 inches in diameter or more,
    - (x) wetlands delineation,
    - (xi) sidewalks, walkways, driveways, loading areas and docks, bikeways,
    - (xii) fences and retaining walls,
    - (xiii) exterior signs,
    - (xiv) exterior refuse collection areas,
    - (xv) exterior lighting,
    - (xvi) landscaping (see possible application of §20.020(2)),
    - (xvii) traffic flow on-site,
    - (xviii) traffic flow off-site,
    - (xix) surface water drainage arrows.
  - (b) cross sections of property as required by the City Planner;
  - (c) location of existing and proposed public and private open space;
  - (d) a staging plan for any project involving more than one construction season which sets forth the chronological order of construction and relates the proposed uses and structures to the construction of various service facilities, and gives estimated completion dates;
  - (e) site statistics including site square footage, percent of site coverage, dwelling unit density, percent park or open space;
  - (f) elevation drawings of all proposed structures and buildings, with dimensions;
  - (g) height above mean sea level of the lowest floor when the structure is proposed to be located in a Water Management Overlay District;

- (h) gross square footage of existing and proposed structures and buildings;
  - (i) exterior finish materials.
  - (j) A listing of all required Federal, State and City permits and status of applications.
  - (k) Other information considered pertinent by the City staff and consultants.
- (3) If an accessory building or building addition meets all requirements of Section 20.040 and is not more than 5,000 square feet in size or 10 percent of the total building footprint, whichever is less, or if any parking lot expansion is no more than 10,000 square feet in size or 25 percent of the total existing parking surface of a site, whichever is less, the council, upon recommendation of the Development Review Committee (as established under Section 6.025), may waive requirements of this chapter and proceed to consider a formal site plan.

6.064 Detailed Landscaping Plans. Detailed landscape plans shall be required and shall be produced on a separate sheet from those for drainage and utilities per the Council adopted Site Application Checklist. They shall be prepared and signed by a registered landscape architect or professional equivalent and meet or exceed the standards in Section 20.020.

6.066 Hearing Procedure for Site Plan.

- (1) Notification of Site Plan Review. A notice of Site Plan review shall be mailed at least 7 days prior to the Planning Commission meeting to each owner of property situated wholly or partly within 350 feet of the property to which the site plan relates. The City Clerk shall be responsible for mailing such notices. For the purpose of giving mailed notice, the Clerk may require the owner of the property affected to furnish an abstractor's property certificate showing the property owners (and their mailing addresses) within 350 feet of the property.
- (2) Review and Recommendation by the Planning Commission. In considering applications for Site Plan Approval under this Code, the Planning Commission shall consider the following: interrelationship with the plan elements to conditions both on and off the property; conformance to the City's Comprehensive Plan; the impact of the plan on the existing and anticipated traffic and parking conditions; the adequacy of the plan with respect to land use; pedestrian and vehicular ingress and egress; building location and height; architectural and engineering features; landscaping; lighting; provisions for utilities; site drainage; open space; loading and unloading areas; grading; signage; screening; setbacks; and other related matters. The Planning Commission shall consider oral or written statements from the applicant, the public, City staff members, or its own members. It may question the applicant; it may approve, disapprove, or table by motion the development proposal. The application may not be tabled for more than 60 days. The Commission may impose necessary conditions and safeguards.
- (3) Review and Decision by City Council. The City Council shall review the Site Plan Approval application after the Planning Commission has made its recommendation. In its review the Council shall consider the same impacts and features as did the Commission.

6.068 Developers Agreement. Prior to issuing a Building Permit, the City Council shall require the applicant to sign an agreement with the City which assures that particular elements of the Site Plan Approval application, either proposed by the applicant or imposed by the City, shall be carried out. The Clerk may require the owner of the property to furnish an abstractor's property certificate showing the property owners (and their mailing addresses) within 350 feet of the property. Application fees and review deposits shall be subject to the fees established by the City Council pursuant to Section 90.030.

6.070 Procedure for Special Use Permit Approval.

- (1) Generally. Certain uses, while generally not suitable in a particular Zoning District, may, under certain circumstances, be acceptable. When such circumstances exist, a Special Use Permit may be granted. Conditions may be applied to the issuance of the permit and/or periodic review may be required. The Permit shall be granted for a particular use and not for a particular person or firm.
- (2) Application for Special Use Permit. The Application shall include all information listed on the Special Use Permit Application as approved by the City Council. The Application shall be submitted by the responsible party, and the land owner must sign the Application. The Application shall be accompanied with the fee according to the license, permit, and application fee schedule set forth by the City Council.
- (3) Notice of Special Use Permit Application. A notice of Special Use Permit application shall be published and mailed at least 10 days prior to the Planning Commission meeting to each owner of property situated wholly or partly within 350 feet of the property to which Special Use relates. The City Clerk shall be responsible for mailing such notices. For the purpose of giving mailed notice, the clerk may require the owner of the property affected to furnish an abstractor's property certificate showing the property owners (and their mailing addresses) within 350 feet of the property.
- (4) Review and Recommendation by the Planning Commission. In considering applications for Special Use Permit under this Code, the Planning Commission shall consider the following: economic and aesthetic impact upon surrounding properties; interrelationship with the plan elements to conditions both on and off the property; conformance to the City's Comprehensive Plan; the impact of the plan on the existing and anticipated traffic and parking conditions; the adequacy of the plan with respect to land use; pedestrian and vehicular ingress and egress; building location and height; architectural and engineering features, landscaping; lighting; provisions for utilities; site drainage; open space; loading and unloading areas; grading; signage; screening; setbacks; and other related matters. The Planning Commission shall consider oral or written statements from the applicant, the public, City staff members, or its own members. It may question the applicant; it may approve, disapprove, or table by motion the development proposal. The application may not be tabled for more than 60 days. The Commission may impose necessary conditions and safeguards.
- (5) Review and Decision by City Council. The City Council upon the same notice as in (3) above shall review the Special Use Permit application after the Planning Commission has made its recommendation and approve or deny the application. In its review the Council shall consider the same impacts and features as the Planning Commission.

6.080 Procedure for Interim Use Permit Approval.

- (1) Generally. Interim uses may be considered in any zoning district, subject to the applicable conditions and procedures in this Chapter. The uses may not be consistent with the Comprehensive Plan and may also fail to meet all of the applicable zoning district standards. The purposes for allowing interim uses are to:
  - (a) Allow for use of property for a limited time, under specific conditions, until the property is developed as guided and zoned.
  - (b) Allow a use for a limited period of time until a permanent location is obtained or while the permanent location is under construction.
  - (c) Allow a use that is presently acceptable, but that, with anticipated development or redevelopment, may not be acceptable in the future or will

be replaced in the future by a permitted or special use allowed within the respective zoning district.

- (d) Allow a use that is seasonal or temporary in nature.
- (2) Application for Interim Use Permit. The application shall include all information listed on the interim use permit application as approved by the City Council. The application shall be submitted by the responsible party, and the land owner must sign the application. The application shall be accompanied with the fee according to the license, permit, and application fee schedule set forth by the City Council.
- (3) Notice of Interim Use Permit Application. A notice of an interim use permit application shall be subject to the requirements in Chapter 6.070(3) concerning special use permits.
- (4) Review and Recommendation by the Planning Commission. In considering applications for an interim use permit under this Code, the Planning Commission shall consider the following: the date or event that will terminate the use can be identified with certainty; permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; the use will not unreasonably delay anticipated development or redevelopment of the site; economic, environment, and aesthetic impact upon surrounding properties; interrelationship with the plan elements to conditions both on and off the property; conformance to the City's Comprehensive Plan; the impact of the plan on the existing and anticipated traffic and parking conditions; the adequacy of the plan with respect to land use; pedestrian and vehicular ingress and egress; building location and height; architectural and engineering features; landscaping; lighting; provisions for utilities; site drainage; open space; loading and unloading areas; grading; signage; screening; setbacks; and other related matters. The Planning Commission shall consider oral or written statements from the applicant, the public, City staff members, or its own members. It may question the applicant; it may approve, disapprove, or table by motion the development proposal. The application may not be tabled for more than 60 days. The Commission may impose necessary conditions and safeguards.
- (5) Review and Decision by City Council. The City Council upon the same notice as in (3) above shall review the interim use permit application after the Planning Commission has made its recommendation and approve or deny the application. In its review the Council shall consider the same impacts and features as the Planning Commission.
- (6) Conditions. The City Council shall attach conditions to interim use permits, including, but not limited to, hours of operation, provisions for land restoration as appropriate, any circumstances and conditions for extension of the interim use permit duration, and other conditions or events that will terminate the interim use of the property. The City shall consider the public health, welfare, and safety impacts and provide for mitigation of any adverse impacts particularly as they relate to noise, dust, odor, traffic, and other operations. Performance guarantees by letters of credit, bonds, or cash may be required to assure the property will be restored for its designated permanent use.
- (7) Permit Expiration. An interim use shall expire and cease operation at the earliest of the following:

- (a) Four (4) years from the date of approval.
  - (b) Upon an expiration date established as a condition of approval.
  - (c) Upon reaching some other expiration threshold established as a condition of approval.
- (8) Permit Revocation. An interim use permit may be revoked by any of the following; whichever occurs first:
- (a) A violation of any condition set forth in an interim use permit.
  - (b) A violation of any law of the United States or the State of Minnesota, or City Code.
  - (c) If after approval it is discovered the permit was issued based on false, misleading, or fraudulent information.
  - (d) An amendment to the City Code which prohibits the use.
  - (e) The use becomes in conflict with the City Code.
  - (f) The expiration date or occurrence of any event(s) stated in the permit for termination of the use.
  - (g) The use has ceased for a continuous period of at least six (6) months.
  - (h) The use has not commenced or a building permit for a structure to support the use has not been issued within one (1) year after approval.
- (9) Notice of Revocation. Upon occurrence of the date or event for termination of the interim use permit, the permittee shall be notified in writing that the permit shall terminate not later than six (6) months after the date of such notice. In the case of a violation of the conditions of the interim use permit, the permit is subject to immediate revocation after such notice.
- (10) Permit Review. An interim use permit may be reviewed by the City Council at any time to verify compliance with the terms and conditions of the permit.
- (11) Effect of Permit. The interim use permit shall be granted for a particular use, not for a particular person or firm, and does not confer on the property any vested right(s). Any transfer of an active permit to another property owner is subject to approval by the Planning/Community Development Director.
- (12) Permit Extension. The permittee may request an extension of the permit for such additional periods as are consistent with the terms and conditions of the original permit, under the same notice and review requirements as the original permit.

6.090 Fees. The schedule of fees is established in Section 90.030 of the City Code.

6.110 Non-Conforming Uses.

- (1) Definition. A non-conforming use is any use or arrangement of land or structures legally existing prior to the enactment of a Code provision prohibiting such use.
- (2) Rights. Pursuant to Minnesota Statute Section 462.357, Subd. 1e:
  - (a) Any non-conformity, including the lawful use or occupation of land or premises existing at the time a City Code amendment created the non-conformity, may be continued with any necessary approvals, including through repair, replacement, restoration, maintenance or improvements but not including expansion unless otherwise authorized in the Code.
  - (b) Normal maintenance of a structure which is a non-conforming use or which contains a non-conforming use is permitted including repair, replacement,

restoration or improvement, provided that it does not extend or intensify the non-conforming use.

- (3) Expansion Prohibited. Non-conformities may not be expanded unless expressly permitted as described below.
  - (a) Non-conforming uses may expand upon issuance of a Special Use Permit only when such expansion is expressly listed as a Special Use within the applicable zoning district.
  - (b) Non-conforming lots may expand only upon approval of a variance or planned unit development zoning that allows the proposed level of non-conformity.
  - (c) Non-conforming structures may expand only upon approval of a variance or planned unit development zoning that allows the proposed level of non-conformity.
  - (d) Non-conforming site characteristics may expand only upon approval of a variance of a planned unit development zoning that allows the proposed level of non-conformity.
  - (e) A legal non-conforming industrial or commercial use may be expanded once by no more than 10 percent of its floor area or 1,200 square feet, whichever is greater, with a Special Use Permit pursuant to subpart (f) below.
  - (f) Any expansion allowed herein must include findings that the proposed expansion will reduce the impact of the legal non-conforming use on the surrounding properties in terms of activity, noise, traffic, light, appearance, outside storage of vehicles, equipment or materials, or other issues pertinent to the specific property and use involved.
- (4) Termination of Rights.
  - (a) A legal non-conforming use must not resume when:
    - (i) The use is discontinued for a period of more than one year, or
    - (ii) The use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value and no building permit has been applied for within 180 days of when the property was damaged. The assessed market value (including buildings and land) must be determined by the most recent valuation of the City Assessor.
- (5) Conformance Triggers: Non-conformities must be brought into conformance upon the following events:
  - (a) Non-conforming uses. Non-conforming uses must be brought into conformance with current requirements of the City Code upon:
    - (i) Change of the use;
    - (ii) Discontinuance of the use for a period of more than one year, or;
    - (iii) Destruction of the use, provided that no building permit has been applied for within 180 days of the date of destruction. The City may impose reasonable conditions on the building permit to mitigate newly created impacts on adjacent properties.
  - (b) Non-conforming lots. Non-conforming lots must be brought into conformance with current lot requirements of the City Code upon subdivision or replatting of the lot.
  - (c) Non-conforming structures. Non-conforming structures must be brought into conformance with current structure requirements of the City Code upon:
    - (i) Destruction or removal of the structure, or
    - (ii) Relocation of the structure.
  - (d) Non-conforming Site Characteristics. Non-conforming site characteristics must be brought into conformance with current site characteristic requirements of the City Code upon:

- (i) Redevelopment of the site or expansion of total floor area on the site by 25 percent or greater.
  - (ii) Destruction or removal of the site characteristic.
  - (iii) Issuance of a permit for a related site characteristic if conformance is stipulated as a condition of permit approval.
  - (iv) Change of use of the site (only for use-generated requirements including but not limited to the number of parking spaces and trash storage requirements).
  - (v) A determination by the City that the site characteristic must be brought into conformance to protect the public health, safety and welfare.
- (6) Unimproved Lots. Any platted lot existing on September 15, 1970, and then held in separate ownership different from the ownership of adjoining lots may be used for the erection of a lawful structure, even though its area and width are less than the current minimum requirements so long as setback requirements are met (or as a variance may permit) and subject to the requirements of Subdivision 3(f) herein.
- (7) Unsafe Structures. Nothing in this Section shall be construed to permit the continued use of a structure or site found to be in violation of building, basic life safety or health codes of the City.

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

(Source: Ord. 114; Ord. 129; Ord. 131; Ord. 141; Ord. 143; Ord. 149; Ord. 152; Ord. 165; Ord. 167; Ord. 174; Ord. 175; Ord. 190; Ord. 215; Ord. 219; Ord. 220; Ord. 224; Ord. 225; Ord. 227; Ord. 234; Ord. 236; Ord. 240; Ord. 249; Ord. 256; Ord. 257; Ord. 258; Ord. 260; Ord. 261; Ord. 268; Ord. 269; Ord. 286; Ord. 295; Ord. 313; Ord. 403; Ord. 423; Ord. 437; Ord. 465; Ord. 522; Ord. 534; Ord. 563; Ord. 573; Ord. 599; Ord. 603; Ord. 633; 8-3-2011; Ord. 710; 3-15-2017)