

**Subd. B. Administration: Conditional Use Permits.** Certain uses, while generally not suitable in a particular zoning district, may under some circumstances be suitable. When such circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit and an annual review of the permit may be required. The permit shall be granted for a particular use and not for a particular person or firm. Conditional use permits may be granted in accordance with this subdivision for any use or purpose for which such permits are required or permitted by this ordinance or as listed as a conditional use for the zoning districts of this Ordinance.

1. **Application.** Requests 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 Section 51.01, Subd. A.12 of this Ordinance. Such application shall also be accompanied by eight (8) large scale copies of detailed written and graphic materials fully explaining the proposed change, development, or use, an eleven (11) inch by seventeen (17) inch reduced paper copy of all graphic materials, one (1) digital electronic copy in a format compatible with the City's computer system, and a list of affected property owners within three hundred fifty (350) feet of the subject property obtained from the current tax rolls provided in the City Hall or Wright County Offices and have the list verified by the City Administrator.
2. **Staff Review/Technical Assistance Reports.** Upon receipt of an application for a conditional use permit, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council.
3. **Public Hearing.** Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next regularly scheduled Planning Commission meeting occurring at least ten (10) working days from such date as a notice of the hearing is published in the official newspaper. Such notice shall contain a legal property description and description of the request, and shall be published no more than thirty (30) days and no less than ten (10) days prior to the hearing. Written notification of the hearing shall also be mailed at least ten (10) working days prior to the date of the hearing to all owners of land within three hundred fifty (350) feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.
4. **Planning Commission Action.** The Planning Commission shall conduct the public hearing at which time the applicant or a representative thereof shall appear to answer questions concerning the proposed request.

- a. The Planning Commission shall consider possible adverse effects of the proposed conditional use permit. Its judgment shall be based upon (but not limited to) the following factors:
  - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
  - 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 can be accommodated with existing public services and will not overburden the City's service capacity when:
    - a) The proposed development shall be served with adequate and safe water supply.
    - b) The proposed development shall be served with an adequate and safe sanitary sewer system.
    - c) The proposed development shall not result in the premature expenditures of City funds on capital improvements necessary to accommodate the proposed development.
  - 5) Traffic generation by the proposed use is within capabilities of the streets serving the property when:
    - a) If the existing level of service (LOS) outside of the proposed site is A or B, traffic generated by a proposed site will not degrade the level of service more than one grade.
    - b) If the existing LOS outside of the proposed site is C, traffic generated by a proposed site will not degrade the level of service below C.
    - c) The existing LOS must be C or better for all streets and intersections providing access to the site. If the existing level of service is D, E or F, the site developer must provide, as part of the proposed project, improvements needed to ensure a level of service C or better, or the City may deem the development premature.

- d) Existing roads and intersections providing access to the site must have the structural capacity to accommodate projected traffic from the proposed site or the developer will pay to correct any structural deficiencies.
  - e) The traffic generated from a proposed site shall not require City street improvements that are inconsistent with the Delano Capital Improvement Plan. However, the City may, at its discretion, consider developer-financed improvements to correct any street deficiencies.
- b. 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.
- c. 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 this Ordinance. Such recommendation shall be in writing and accompanied by any report and recommendation of the City staff. The written recommendation of the Planning Commission shall be forwarded to the Zoning Administrator for referral to the City Council.

5. **Referral to City Council.** Upon receipt of the Planning Commission report and recommendation, the Zoning Administrator shall place the request and any report and recommendation on the agenda of the next regularly scheduled meeting of the City Council. The Planning Commission must act and report its recommendation in a timely manner so that the City Council can act on the application within sixty (60) days of receipt of a complete application, unless the review period for the applicant has been extended pursuant to Minnesota Statutes 15.99.

6. **City Council Action.** Upon receiving the request and any 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 and written finding of fact, and provide this written finding to the applicant within sixty (60) days of receipt of a completed application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99.

- a. Approval of a proposed conditional use permit shall require passage by a majority vote of all members of the City Council.

- b. In the case of a conditional use permit, the City Council may impose any condition it considers necessary to protect the public health, safety, and welfare.
- c. 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 not less than a majority vote of the full City Council.

7. **Recording Conditional Use Permit.** Following approval of the conditional use permit, the City shall file a certified copy thereof including a legal description of the property with the County Recorder and/or Registrar of Title.

8. **Performance Security.**

- a. Except in the case of non-income producing residential property, upon approval of a conditional use permit the City may require a letter of credit, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the City.
- b. The security shall be in the amount of one and one-half (1-1/2) times the City Engineer's or a certified appraiser'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 ordinances of the City has been issued by the City Building Official.
- d. Failure to comply with the conditional use permit or the ordinances of the City shall result in forfeiture of the security.

9. **Lapse of Conditional Use Permit by Non-Use.**

- a. Whenever within one (1) year after granting a conditional use permit, the use as permitted by the permit shall not have been completed 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 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.

b. All unused conditional use permits that were approved prior to the effective date of this Ordinance shall be utilized within one (1) year of the effective date of this Ordinance amendment, otherwise said permit shall become null and void, unless a petition for an extension of time in which to complete or utilize the permit 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 conditional use permit. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation to the City Council.

10. **Periodic Review.** If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review; it shall be the responsibility of the City Clerk to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review.

11. **Conditional Use Permit Amendments.** Any change involving structural alteration, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. An amended conditional use permit application and requests for changes in conditions shall be administered in a manner similar to that required for a conditional use permit.

12. **Revocation.** If an approved conditional use permit is in violation of this Ordinance or the conditions of permit approval, the City may initiate a process to revoke the conditional use permit. The City shall then conduct a public hearing to consider the revocation of a conditional use permit. Notifications shall be distributed and published according to Section 51.02, Subd. 2.C. The public hearing shall be conducted by the Planning Commission, which shall make a recommendation to the City Council. In considering revocation, the Planning Commission and the City Council shall consider compliance with the approved conditions of the conditional use permit and the standards listed in Section 51.02,

Subd. 2.D. The City may also conduct a public hearing and consider revocation if the time requirements of Section 51.02, Subd. 2.I. have not been met.

Following a vote by the City Council to revoke the conditional use permit, the City shall file a certified copy thereof including a legal description of the property with the County Recorder and/or Registrar of Title.

13. **Application and Submittal Requirements.** Application for conditional use permits shall be filed with the Zoning Administrator and shall be accompanied by the appropriate fee and following information requirements:

- a. Proof of title and contract/purchase agreement and property owner signature on the application form when applicable.
- b. Eight (8) large scale copies and reduced (11" x 17") copies of detailed written materials, plans and specifications. One (1) electronic copy in a format compatible with the City's computer system.

**Note:** One or two *additional* large scale copies shall be provided for each of the following, if applicable:

- Project adjacent to a County Road or County State Aid Highway – (2 sets)
- Project adjacent to a State Highway – (2 sets)
- Project lies within a Shoreland District – (1 set)
- Project lies within a Floodplain District – (1 set)

- c. Certificate of Survey prepared by a licensed land surveyor identifying the following:
  - 1) Scale (engineering only) at one (1) inch equals one hundred (100) feet or less.
  - 2) North point indication.
  - 3) Existing boundaries with lot dimension and lot area.
  - 4) Existing buildings, structures and improvements.
  - 5) Easements of record.
  - 6) Delineated wetland boundary, to include the OHWL of any lakes or DNR waters.
  - 7) All encroachments.
  - 8) Legal description.

d. Site Plan using the current Certificate of Survey as a base depicting the following:

- 1) Name of project or development.
- 2) Name and address of developer and/or owner.
- 3) Name and address of engineer/architect/designer.
- 4) Date of plan preparation and dates of any subsequent revisions.
- 5) All proposed improvements, including:
  - a) Required and proposed setbacks.
  - b) Location, setback and dimensions of all proposed buildings and structures.
  - c) Location of all adjacent buildings and structures within one hundred (100) feet of the exterior boundaries of the subject property.
  - d) Location, number, dimensions of all proposed parking stalls, loading areas and drive aisles, with curbing shown.
  - e) Location and width of all proposed street accesses and driveways.
  - f) Location and type of all proposed lighting, including fixture details.
  - g) Provisions for storage and disposal of waste, garbage and recyclables, including details for enclosing and screening exterior containers.
  - h) Location of freestanding signs.
  - i) Location of HVAC equipment whether ground mounted or roof mounted.
- 6) Calculations for impervious/pervious surfaces.

e. Grading Plan (using the current Certificate of Survey as a base) depicting the following:

- 1) Existing contours at two- (2) foot intervals.

- 2) Proposed grade elevations at two- (2) foot maximum intervals.
- 3) Drainage plan, including the configuration of drainage areas and calculations.
- 4) Spot elevations.
- 5) Surface water ponding and treatment areas.
- 6) Erosion control measures.
- 7) Wetland replacement plan (when applicable).
- 8) Drainage calculations for 2-, 10-, & 100-year storm events.
- 9) Delineated wetland boundary, to include OHWL of any lakes or DNR waters.
- 10) Date of plan preparation and dates of any subsequent revisions.

f. Landscaping Plan using the current Certificate of Survey as a base depicting the following:

- 1) Planting schedule including:
  - a) Symbols.
  - b) Quantities.
  - c) Common and botanical names.
  - d) Sizes of plant materials.
  - e) Root specification (bare root, balled/burlapped, potted, etc.).
  - f) Special installation instructions.
- 2) Location, type and size of all significant trees to be removed or preserved.
- 3) Location and species of proposed plantings of all species.
- 4) Typical sections with details of fences, walls, and planter boxes.
- 5) Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials to be used.
- 6) Delineation of both sodded and seeded areas with respective areas measured in square feet.

- 7) Coverage plan for underground irrigation systems, if any.
- 8) Other existing or proposed conditions that could be anticipated to affect landscaping.
- 9) Date of plan preparation and dates of any subsequent revisions.

g. Photometric Lighting Plan, to include fixture details/cut sheets/drawings.

- 1) Date of plan preparation and dates of any subsequent revisions.

h. Architectural Plans.

- 1) Date of plan preparation and dates of any subsequent revisions.
- 2) Architectural elevations of all principal and accessory buildings and structures (type and materials used in all exterior surfaces).
- 3) Typical floor plans and typical room plans drawn to scale with a summary of square footage by use or activity.

i. Utility Plan.

- 1) Location, sizing, and type of water and sewer system mains and proposed service connections, hydrants, valves, and manholes; or,
- 2) Location and size of proposed primary and secondary on-site treatment systems, when allowed (if ISIS is proposed).
- 3) Storm sewer, catch basins, invert elevation, type of castings and type of materials (refer to Engineering Manual for City standards).
- 4) Date of plan preparations and dates of any subsequent revisions.
- 5) Estimates of forecasted water consumption.
- 6) Location of electrical services and any transformers and meters.

j. Other plans and information as may be required by the Zoning Administrator which may include (but not be limited to) the following:

- 1) Location, type and size (area and height) of all signs to be erected upon the subject property.
- 2) Vicinity map showing the subject property in relation to nearby highways or major street intersections.

- 3) Sound source control plan.
- 4) Fire protection plan.
- 5) Proposed protective covenants or private restrictions.
- 6) Where landscaping or man-made materials are used to provide screening from adjacent properties, a cross section shall be provided showing the perspective of the site from neighboring properties at the property line elevation.
- 7) Traffic study.

k. For applications for new communication towers, the application shall include information to demonstrate compliance with the provisions of Section 51.03, Subd. M, including but not limited to:

- 1) Demonstration that a significant gap in coverage exists that would be resolved by the proposed location and that adequate service cannot be provided utilizing existing structures within a two (2) mile search radius of the proposed site.
- 2) Structural design information to ensure compliance with manufacturer specifications and to ensure the tower can accommodate additional antennas (co-location).
- 3) Authorization from the property owner if different from applicant.
- 4) Lease or agreement requiring removal of the tower and facilities after cessation of use.
- 5) Copies of applicable federal, state, and local licenses, permits, approvals.