

- 1) The standards of a conditional use permit set forth in Section 51.02, Subd. B of this Ordinance shall be satisfied.
- 2) The use shall conform to the applicable performance standards of this Ordinance.
- 3) The use shall be listed as an allowed interim use in the respective zoning district.
- 4) The date or event that will terminate the use can be identified with certainty.
- 5) The use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
- 6) The user agrees to any conditions that the City Council deem appropriate for permission of the use.

4. **Termination.** An interim use shall terminate on the happening of any of the following events, whichever first occurs:

- a. The date stated in the permit.
- b. Upon violation of conditions under which the permit was issued.
- c. Upon change in the City's zoning regulations which renders the use non-conforming.
- d. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

5. **Revocation.** If an approved interim use permit is in violation of this Ordinance or the conditions of permit approval, the City may initiate a process to revoke the interim use permit. The City shall then conduct a public hearing to consider the revocation of an interim use permit. Notifications shall be distributed and published according to Section 51.02, Subd. B.3. The public hearing shall be conducted by the Planning Commission, which shall make a recommendation to the City Council. In considering revocation, the Board and the City Council shall consider compliance with the approved conditions of the interim use permit and the standards listed in Section 51.02, Subd. B.4.

#### **Subd. D. Administration: Variances and Appeals.**

1. **Variances.** Variances from the literal provisions of the ordinance may be granted in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.
  - a. **Findings of Fact.** In considering all requests for variance or appeal and in taking subsequent action, the City shall make a finding of fact:
    - 1) That the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.
    - 2) That the plight of the landowners is due to physical circumstances unique to his property not created by the land owner.
    - 3) That the hardship is not due to economic considerations alone if reasonable use for the property exists under the terms of the ordinance.
    - 4) That granting the variance requested will not confer on the applicant any special privilege that would be denied by this ordinance to other lands, structures, or buildings in the same district.
    - 5) That the proposed actions will be in keeping with the spirit and intent of the ordinance.
  - b. **Application.** Requests for variances, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by the City Council resolution. This fee shall not be refunded. 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.
  - c. **Staff Review/Technical Assistance Reports.** Upon receipt of an application for appeal or variance, 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.

- d. 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.
- e. 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.
  - 1) The Planning Commission shall consider possible adverse effects of the variance. In the case of a variance request, the Planning Commission's judgment shall be based upon (but not limited to) the conditions set forth in Section 51.02, Subd. D.1.a of this Ordinance.
  - 2) The Planning Commission and City staff shall have the authority to request any additional information from the applicant deemed necessary to establish performance conditions pertaining to the request.
  - 3) 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. Such recommendations 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 within sixty (60) days of the receipt of a complete application, unless the review period is extended pursuant to Minnesota Statutes 15.99.
- f. 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.

g. 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.

- 1) Approval of a request shall require passage by a majority vote of the City Council.
- 2) The City Council may impose any condition it considers necessary to protect the public health, safety, and welfare.
- 3) Whenever an application for a variance has been considered and denied by the City Council, a similar application for the variance affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by not less than a majority vote of the full City Council.

h. Recording a Variance. Following approval of the variance, the City shall file a certified copy thereof including a legal description of the property with the County Recorder and/or Registrar of Title.

i. Lapse of Variance or Appeal.

- 1) Whenever within one (1) year after granting a variance, the use as permitted by the variance shall not have been completed or utilized, then such variance shall become null and void unless a petition for extension of time in which to complete or to utilize the use has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance. 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 variance. Such petition shall be presented

to the Planning Commission for a recommendation to the City Council for a decision.

- 2) All unused variances 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 variance shall become null and void unless a petition for extension of time in which to complete or utilize the use has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance. 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 variance. Such petition shall be presented to the Planning Commission for a recommendation to the City Council for a decision.

j. Performance Security. In such cases as a variance is approved contingent upon certain conditions imposed by the Council, the Council may require a performance security to be provided.

- 1) Upon approval of a variance, 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 variance and the ordinances of the City.
- 2) 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.
- 3) The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance and ordinances of the City has been issued by the City Building Official.
- 4) Failure to comply with the conditions of the variance and the ordinances of the City shall result in forfeiture of the security for action necessary on the part of the City to correct problems or deficiencies.

k. Submittal Requirements. Applications for variances shall be filed with the City and shall be accompanied by the following submittal information:

- 1) Proof of title and contract/purchase agreement and/or property owner signature on the application form when applicable.
- 2) Five (5) large scale copies and reduced (11" x 17") copies of detailed written materials, plans and specifications to include the following information:
  - 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)
- 3) Certificate of survey prepared by a licensed land surveyor identifying the following: The City may waive the certificate of survey when the survey will not provide information relevant to the variance necessary to review the application.
  - a) Scale (engineering only) at one (1) inch equals one hundred (100) feet or less.
  - b) North point indication.
  - c) Existing boundaries with lot dimension and lot area.
  - d) Existing buildings, structures and improvements.
  - e) Easements of record.
  - f) Delineated wetland boundary, to include the OHWL of any lakes or DNR waters.
  - g) All encroachments.
  - h) Legal description.
- 4) Graphic information, plans, specifications, or other materials that illustrate the requested variance.
- 5) Narrative description that sets forth the reasons the variance is justified in order to make reasonable use of the land, structure or building and that the variance is the minimum variance required.

2. **Appeal.** An appeal shall only be applicable to an administrative permit, order, requirement or interpretation of intent of provisions of this Ordinance. Opinions and evaluations as they pertain to the impact or result of a request are not subject to the appeal procedure. The City Council shall be the Board of Appeals

and Adjustments with powers listed in Minnesota Statutes 462.357, subdivision 6.

a. Appeal Procedures.

- 1) The property owner or their agent shall file with the Zoning Administrator an application for appeal stating the specific grounds upon which the appeal is made. Said application shall be accompanied by a fee as established by City Council ordinance. In cases where the application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within fifteen (15) days of the date of submission.
- 2) An appeal stays all proceedings and the furtherance of the action being appealed unless it is certified to the Board of Adjustment Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property.
- 3) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation on the action to the Board of Adjustments and Appeals.
- 4) The Board of Appeals and Adjustment shall consider the application for appeal at a public meeting and consider testimony of the property owner and City staff.
- 5) Pursuant to Minnesota Statutes 15.99, the Board of Adjustment and Appeals 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.
- 6) The Zoning Administrator shall serve a copy of the final order of the Board upon the applicant by mail.

**Subd. E. Administration: Administrative Permits.**

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

1. **Application.** Requests for administrative permits, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application